



### ROANOKE CITY COUNCIL ROANOKE CITY SCHOOL BOARD MONDAY, AUGUST 7, 2006

# 9:00 A.M. STONEWALL JACKSON MIDDLE SCHOOL MEDIA CENTER 1004 MONTROSE AVENUE, S. E.

#### **AGENDA**

1. Call to Order -- Roll Call

City Council School Board

- 2. Welcome and Opening Remarks. Mayor Harris
  Chairman Carson
- 3. School Board Items:
  - a. 2006-07 Strategic Planning Goals and Objectives Chairman Carson
- 4. Discussion of Additional Capital Improvement Funds for Patrick Henry High School
- 5. Facilities and Financing Work Group Updates
- 6. Council Inquiries:
  - a. 2006 High School Football Schedule Mr. George Miller
  - b. Community Walking Trail at William Fleming Mr. Bernard Godek
  - c. After-School Programs Mr. August Bullock

- 7. Briefing on Storage and Distribution of Motor Fuels Mr. Ken Cronin
- 8. Comments by Council Members/School Board Trustees
- 9. Adjournment/Recess

FOLLOWING THE JOINT MEETING OF COUNCIL AND THE SCHOOL BOARD, THE COUNCIL WILL RECONVENE IN ROOM 159, NOEL C. TAYLOR MUNICIPAL BUILDING, 215 CHURCH AVENUE, S. W., CITY OF ROANOKE. TO CONSIDER THE FOLLOWING AGENDA ITEMS:

A communication from Mayor C. Nelson Harris requesting that Council convene in a Closed Meeting to discuss vacancies on certain authorities, boards, commissions and committees appointed by Council, pursuant to Section 2.2-3711(A)(1), Code of Virginia (1950), as amended.

P 9

Items listed on the 2:00 p.m. Council docket requiring discussion/clarification, and additions/deletions to the 2:00 p.m. agenda. (10 minutes)

Topics for discussion by the Mayor and Members of Council. (10 minutes)

#### **BRIEFINGS:**

#### City Manager:

•	Flood Reduction Project Update	- 1	5 minutes	P 10;
•	Realignment of Right-of-Way			
	Management Issues	- 1	0 minutes	P 11

THE COUNCIL MEETING WILL BE DECLARED IN RECESS TO BE RECONVENED AT 2:00 P.M., IN THE CITY COUNCIL CHAMBER, ROOM 450, NOEL C. TAYLOR MUNICIPAL BUILDING.



## ROANOKE CITY COUNCIL REGULAR SESSION

AUGUST 7, 2006 2:00 P.M.

#### CITY COUNCIL CHAMBER

#### **AGENDA**

#### 1. Call to Order--Roll Call.

The Invocation will be delivered by Council Member Beverly T. Fitzpatrick, Jr.

The Pledge of Allegiance to the Flag of the United States of America will be led by Mayor C. Nelson Harris.

Welcome. Mayor Harris.

#### **NOTICE**:

Meetings of Roanoke City Council are televised live on RVTV Channel 3. Today's Council meeting will be replayed on Channel 3 on Thursday, August 10, 2006, at 7:00 p.m., and Saturday, August 12, 2006, at 4:00 p.m. Council meetings are offered with closed captioning for the hearing impaired.

#### **ANNOUNCEMENTS:**

THE PUBLIC IS ADVISED THAT MEMBERS OF COUNCIL RECEIVE THE CITY COUNCIL AGENDA AND RELATED COMMUNICATIONS, REPORTS, ORDINANCES AND RESOLUTIONS, ETC., ON THE WEDNESDAY PRIOR TO THE COUNCIL MEETING TO PROVIDE SUFFICIENT TIME FOR REVIEW OF INFORMATION. CITIZENS WHO ARE INTERESTED IN OBTAINING A COPY OF ANY ITEM LISTED ON THE AGENDA MAY CONTACT THE CITY CLERK'S OFFICE, ROOM 456, NOEL C. TAYLOR MUNICIPAL BUILDING, 215 CHURCH AVENUE, S. W., OR CALL 853–2541.

THE CITY CLERK'S OFFICE PROVIDES THE MAJORITY OF THE CITY COUNCIL AGENDA ON THE INTERNET FOR VIEWING AND RESEARCH PURPOSES. TO ACCESS AGENDA MATERIAL, GO TO THE CITY'S HOMEPAGE AT WWW.ROANOKEVA.GOV, CLICK ON THE SERVICE ICON, CLICK ON COUNCIL AGENDAS TO ACCESS THE APPROPRIATE AGENDA AND COUNCIL MEETING. IF ADOBE ACROBAT IS NOT AVAILABLE, A PROMPT WILL APPEAR TO DOWNLOAD PRIOR TO VIEWING AGENDA INFORMATION.

ALL PERSONS WISHING TO ADDRESS COUNCIL ARE REQUESTED TO REGISTER WITH THE STAFF ASSISTANT WHO IS LOCATED AT THE ENTRANCE TO THE COUNCIL CHAMBER. ON THE SAME AGENDA ITEM, ONE TO FOUR SPEAKERS WILL BE ALLOTTED FIVE MINUTES EACH, HOWEVER, IF THERE ARE MORE THAN FOUR SPEAKERS, EACH SPEAKER WILL BE ALLOTTED THREE MINUTES.

ANY PERSON WHO IS INTERESTED IN SERVING ON A CITY COUNCIL APPOINTED AUTHORITY, BOARD, COMMISSION OR COMMITTEE IS REQUESTED TO CONTACT THE CITY CLERK'S OFFICE AT 853–2541, OR ACCESS THE CITY'S HOMEPAGE AT <u>WWW.ROANOKEVA.GOV</u>, TO OBTAIN AN APPLICATION.

#### 2. PRESENTATIONS AND ACKNOWLEDGEMENTS: NONE.

#### 3. CONSENT AGENDA

ALL MATTERS LISTED UNDER THE CONSENT AGENDA ARE CONSIDERED TO BE ROUTINE BY THE MEMBERS OF CITY COUNCIL AND WILL BE ENACTED BY ONE MOTION. THERE WILL BE NO SEPARATE DISCUSSION OF THE ITEMS. IF DISCUSSION IS DESIRED, THE ITEM WILL BE REMOVED FROM THE CONSENT AGENDA AND CONSIDERED SEPARATELY.

A communication from the City Manager requesting that Council C-1 schedule a public hearing for Monday, August 21, 2006, at 7:00 p.m., or as soon thereafter as the matter may be heard, to consider the lease of office space within the Civic Center Annex.

RECOMMENDED ACTION:

Concur in the request.

A communication from Mary F. Parker, City Clerk, advising of her C-2 retirement as City Clerk for the City of Roanoke, effective October 1, 2006.

**RECOMMENDED ACTION:** 

Receive and file the communication and

accept the notice of retirement.

C-3 Annual Report of the Board of Equalization for the Taxable Year July 1, P 14 2006 to June 30, 2007.

RECOMMENDED ACTION:

Receive and file.

C-4 Qualification of the following persons:

> Barry W. Baird as a member of the Virginia Western Community College Board of Directors, for a term ending June 30, 2010;

> Krista Blakeney as a member of the Fair Housing Board, for a term ending March 31, 2009:

> Darlene L. Burcham and Robert H. Logan, III, as members of the Roanoke Valley Allegheny Regional Commission, for terms ending June 30, 2009;

David C. Key as a member of the Board of Trustees, City of Roanoke Pension Plan, for a term ending June 30, 2010;

Kathleen W. Lunsford as a member of the Roanoke Arts Commission, for a term ending June 30, 2009;

Robert H. McAden as a member of the Parks and Recreation Advisory Board, to fill the unexpired term of Gwendolyn W. Mason, resigned, ending March 31, 2007;

Michael L. Ramsey as a member of the Roanoke Public Library Board, for a term ending June 30, 2009; and

Clarice E. Walker as a member of the Roanoke Neighborhood Advocates, for a term ending June 30, 2009.

RECOMMENDED ACTION: Receive and file.

#### **REGULAR AGENDA**

- 4. PUBLIC HEARINGS: NONE.
- 5. PETITIONS AND COMMUNICATIONS: NONE.
- 6. REPORTS OF OFFICERS:
  - a. CITY MANAGER:

BRIEFINGS: NONE.

#### ITEMS RECOMMENDED FOR ACTION:

1. Acceptance of a Crime Analysis Grant from the Department of Criminal Justice Services, in the amount of \$12,653.00; and appropriation of funds.

P 18; R 20; B/O 21

2. Acceptance of a Rescue Squad Assistance Fund Grant from the Virginia Department of Health, Office of Emergency Medical Services, in the amount of \$42,235.00; and appropriation of funds.

P 22; R 24; B/O 25 3. Acceptance of a Local Government Challenge Grant from the Commonwealth of Virginia Commission for the Arts, in the amount of \$5,000.00; and appropriation of funds.

P 26; R 28: B/O 29

Amendment of the City Code to provide for an increase in the 4. flat fee billed to recover expenses incurred in connection with Driving Under the Influence (DUI) and other traffic incidents; and appropriation of anticipated fees for fiscal year 2006-2007.

P 30; O 33; B/O 35

Amendment of the City Code to delete the prohibition against 5. dogs in the Market Square.

P 36; O 38

6. Amendment of the Fee Compendium to provide for an increase in the sale and replacement price of automated trash containers from \$51.95 to \$60.00.

P 40: R 42

Execution of separate Amendments No. 1 with Hayes, Seay, P 44: 7. Mattern & Mattern, Inc., and Mattern & Craig, Inc., for R 46; consulting services for bridge, culvert, sign, tunnel and parking R 47 garage inspection services.

Execution of Amendment No. 4 to the Lease Agreement with 8. the Commonwealth of Virginia Department of General Services, Division of Engineering and Building, to extend existing rental terms of the lease for space in the Commonwealth Building located at 210 Church Avenue, S. W., for four months, commencing July 1, 2006 and ending October 31, 2006.

P 48; O 52

9. Execution of Amendment No. 1 to the 2004–2005 CDBG/HOME Agreement with the Roanoke Redevelopment and Housing Authority, in connection with the Park Street Square Project.

P 53; R 61

P 62:

O 84

#### 7. REPORTS OF COMMITTEES: NONE.

#### 8. UNFINISHED BUSINESS:

Ordinance conveying an 11.067-acre parcel of City-owned land a. located at the intersection of Orange Avenue and Blue Hills Drive, N. E., to Blue Hills Village, LLC. (Action on the Ordinance was tabled until the regular meeting of Council on Monday, August 7, 2006.)

b. Ordinance conveying a 0.2457-acre parcel of City-owned land located on Nelms Lane, N. E., to L & L Development Corporation. (Action on the Ordinance was tabled until the regular meeting of Council on Monday, August 7, 2006.)

P 86; O 90

### 9. INTRODUCTION AND CONSIDERATION OF ORDINANCES AND RESOLUTIONS: NONE.

#### 10. MOTIONS AND MISCELLANEOUS BUSINESS:

- a. Inquiries and/or comments by the Mayor and Members of City Council.
- b. Vacancies on certain authorities, boards, commissions and committees appointed by Council.

#### 11. HEARING OF CITIZENS UPON PUBLIC MATTERS:

CITY COUNCIL SETS THIS TIME AS A PRIORITY FOR CITIZENS TO BE HEARD. MATTERS REQUIRING REFERRAL TO THE CITY MANAGER WILL BE REFERRED IMMEDIATELY FOR RESPONSE, RECOMMENDATION OR REPORT TO COUNCIL.

#### 12. CITY MANAGER COMMENTS:

CERTIFICATION OF CLOSED SESSION.



### CITY OF ROANOKE OFFICE OF THE MAYOR

215 CHURCH AVENUE, S.W., ROOM 452 ROANOKE, VIRGINIA 24011-1594 TELEPHONE: (540) 853-2444 FAX: (540) 853-1145

August 7, 2006

The Honorable Vice-Mayor and Members of the Roanoke City Council Roanoke, Virginia

Dear Members of Council:

This is to request a Closed Meeting to discuss vacancies on certain authorities, boards, commissions and committees appointed by Council, pursuant to Section 2.2-3711 (A)(1), Code of Virginia (1950), as amended.

Sincerely,

C. Welson Homo

C. Nelson Harris Mayor

CNH:snh



Noel C. Taylor Municipal Building 215 Church Avenue, S.W., Room 364 Roanoke, Virginia 24011-1591 Telephone: (540) 853-2333

Fax: (540) 853-2333 Fax: (540) 853-1138 City Web: www.roanokeva.gov

August 7, 2006

Honorable C. Nelson Harris, Mayor and Members of City Council Roanoke, VA

Dear Mayor Harris and Members of Council:

Subject: Update on Flood Reduction

Project

This is to request space on Council's agenda for a 15 minute presentation of the above referenced subject.

Respectfully submitted,

Darlene L. Burcham

City Manager<sup>()</sup>

DLB:sm

c: City Clerk

City Attorney

Director of Finance



Noel C. Taylor Municipal Building 215 Church Avenue, S.W., Room 364 Roanoke, Virginia 24011-1591 Telephone: (540) 853-2333

Fax: (540) 853-2333 Fax: (540) 853-1138 City Web: www.roanokeva.gov

August 7, 2006

Honorable C. Nelson Harris, Mayor and Members of City Council Roanoke, VA

Dear Mayor Harris and Members of Council:

Subject:

Realignment of Structure

Management

This is to request space on Council's agenda for a 10 minute presentation of the above referenced subject.

Respectfully submitted,

Darlene L. Burcham

City Manager

DLB:sm

c:

City Clerk
City Attorney
Director of Finance



Noel C. Taylor Municipal Building 215 Church Avenue, S.W., Room 364 Roanoke, Virginia 24011-1591 Telephone: (540) 853-2333 Fax: (540) 853-1138 City Web: www.roanokeva.gov

August 7, 2006

Honorable C. Nelson Harris, Mayor Honorable David B. Trinkle, Vice Mayor Honorable Alfred T. Dowe, Jr., Council Member Honorable Beverly T. Fitzpatrick, Jr., Council Member Honorable Sherman P. Lea, Council Member Honorable Gwendolyn W. Mason, Council Member Honorable Brian J. Wishneff, Council Member

Dear Mayor Harris and Members of City Council:

Subject: Request to Schedule a Public Hearing to Consider Lease of Roanoke Civic Center Annex Office Space

Pursuant to the requirements of the Virginia Code, the City of Roanoke is required to hold a public hearing to consider the lease of office space within the Civic Center Annex. Civic Center management has been working with the prospective tenant to identify specific requirements for operation.

#### **Recommended Action:**

Schedule a public hearing to be held on Monday, August 21, 2006 at 7:00 p.m. on the above matter. A full report will be included in the August 21, 2006 agenda material for your consideration.

Respectfully submitted,

Darlene L. Byrcham

City Manager

DLB/wyb

c: Mary F. Parker, City Clerk
William M. Hackworth, City Attorney
Jesse A. Hall, Director of Finance
Wilhemina Y. Boyd, CFE, Director of Civic Facilities



#### CITY OF ROANOKE OFFICE OF THE CITY CLERK

215 Church Avenue, S.W., Room 456 Roanoke, Virginia 24011-1536 Telephone: (540) 853-2541 Fax: (540) 853-1145 E-mail: clerk@ci.roanoke.va.us

August 7, 2006

STEPHANIE M. MOON, CMC
Deputy City Clerk

SHEILA N. HARTMAN Assistant City Clerk

The Honorable Mayor and Members of the Roanoke City Council Roanoke, Virginia

Dear Mayor Harris and Members of Council:

It has been my pleasure to serve the Council and the citizens of the City of Roanoke as City Clerk for the past 30 years. Therefore, it is with mixed emotions that I advise the Council of my retirement, effective October 1, 2006, after more than four decades of service as a City employee.

It has been an honor and a privilege to work with outstanding elected and appointed officials whose primary purpose has been to make the City of Roanoke the very best place in America to live and work. It has also been a privilege and an honor to work with a highly trained and professional staff that goes above and beyond the call of duty to assist the Mayor and Members of Council, their fellow City employees and the citizens of Roanoke on a daily basis.

I express my heartfelt appreciation to the Mayor, the Members of Council and the citizens of Roanoke for the opportunity to serve as your City Clerk. I wish the Council much success as you continue to lead the City of Roanoke to even higher levels of progress and development.

With kindest personal regards, I am

Sincerely.

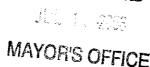
Mary F. Parker, CMC

City Clerk

MFP:sm

### RECEIVED

### TWENTY-THIRD JUDICIAL CIRCUIT OF VIRGINIA



CLIFFORD R. WECKSTEIN, JUDGE ROANOKE CITY COURTHOUSE 315 CHURCH AVENUE, S.W. P. O. BOX 211 ROANOKE, VIRGINIA 24002-0211 (540) 853-2435 FAX (540) 853-1040 CWECKSTEIN@COURTS.STATE.VA.US



CIRCUIT COURT FOR THE COUNTY OF ROANOKE CIRCUIT COURT FOR THE CITY OF ROANOKE CIRCUIT COURT FOR THE CITY OF SALEM

COMMONWEALTH OF VIRGINIA

July 7, 2006

The Honorable C. Nelson Harris, Mayor and Members of the City Council City of Roanoke 215 Church Avenue, S.W., Room 452 Roanoke, Virginia 24011-1594

Annual Report of the Board of Equalization

Dear Mayor Harris and Members of Council:

I am enclosing the Report of the Board of Equalization for the taxable year July 1, 2006 to June 30, 2007. This year, the Board heard and decided 84 appeals, of which 54 were residential, and 30 were commercial and industrial. The number of appeals has fluctuated widely in recent years: Last year, the Board disposed of 107 appeals; the year before, 62.

The Board recommends that future Boards continue to have office space separate from that occupied by the Office of Real Estate Valuation. The members of the Board appreciate the fact that the City's Administration has provided such office space, along with furniture, computers and software for the Board's exclusive use.

The members of the Board were grateful for the pleasant cooperation and support that they received from Susan Lower and the employees of the Office of Real Estate Valuation, and for the praiseworthy service of Pat Lamb, who once again served as the Board's clerical secretary.

I send best regards.

Very truly yours

afford R. Weckstein

Mayor Harris and Members of City Council July 7, 2006 Page 2

cc: Ms. Darlene L. Burcham, City Manager

William M. Hackworth, Esquire, City Attorney

Ms. Mary F. Parker, City Clerk

Ms. Sharon L. Ramsey, Chairman, Board of Equalization

Mr. Thomas M. Hubard, Vice-Chairman, Board of Equalization

Mr. Robert K. Floyd, Jr., Secretary, Board of Equalization

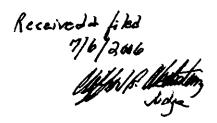
Judges James R. Swanson, Robert P. Doherty, Jr., Jonathan M. Apgar,

Charles N. Dorsey, and William D. Broadhurst



#### Board of Equalization

Noel C. Taylor Municipal Building, Room 250 215 Church Avenue, SW Roanoke, Virginia 24011



July 03, 2006

The Honorable Judge Clifford R. Weckstein Judge of the Circuit Court City of Roanoke Roanoke, Virginia 24011

Dear Judge Weckstein:

We wish to inform you that the Board of Equalization has completed its work for the taxable year July 1, 2006 to June 30, 2007.

The Board received 84 appeals. All properties were inspected with the following results:

#### 84 Appeals were considered

- 54 Residential
- 29 Residential affirmed value
- 23 Residential decreased value
  - 2 Residential increased value
- 30 Commercial and Industrial
- 22 Commercial and Industrial affirmed value
- 8 Commercial and Industrial decreased value

The Honorable Judge Clifford R. Weckstein July 03, 2006 Page 2

Orders were dated and mailed on June 21, 2006 informing each property owner of our decision.

We would like to thank the Office of Real Estate Valuation for supplying property data on various properties. We trust that this assistance will be available for future Boards.

It is recommended that future Equalization Boards continue to have separate office space from the Office of Real Estate Valuation.

Should you have any questions, please contact us.

Respectfully,

Board of Equalization of Real Estate
Assessments for the City of Roanoke

Sharon P. Ramsey, Chairman

Thomas M. Hubard, Vice-Chairman

Robert K. Floyd, Jr., Secretary

SPR/pal



Noel C. Taylor Municipal Building 215 Church Avenue, S.W., Room 364 Roanoke, Virginia 24011-1591 Telephone: (540) 853-2333 Fax: (540) 853-1138 City Web: www.roanokeva.gov August 7, 2006

Honorable C. Nelson Harris, Mayor Honorable David B. Trinkle, Vice Mayor Honorable Beverly T. Fitzpatrick, Jr., Council Member Honorable Alfred T. Dowe, Jr., Council Member Honorable Sherman P. Lea, Council Member Honorable Gwen W. Mason, Council Member Honorable Brian J. Wishneff, Council Member

Dear Mayor Harris and Members of City Council:

Subject: Crime Analysis Grant

#### Background:

The police department employs a full time crime analyst who is responsible for completing time sensitive reports, responding to citizens' and officers' requests for information and making criminal forecasts or projections based on crime trend analysis. Projecting future crimes by date and location is a time consuming process. Due to the significant amount of other duties the crime analyst completes, very little time is available to make these valuable projections.

To remedy this problem, the police department applied for and received a grant from the Department of Criminal Justice Services. The granted amount is \$12,653 and it will be used to purchase computer equipment and provide salary for a part time Crime Data Technician. The Crime Data Technician will assist the Crime Analyst with criminal forecasts and other duties. The grant requires a cash match of \$4,218 which will be funded from the Local Match Funding for grants (35-300-9700-5415).

#### Recommended Action:

Accept the Crime Analysis Grant described above and authorize the City Manager to execute the grant agreement and any related documents, in such form as is approved by the City Attorney. Mayor Harris and Members of City Council August 7, 2006 Page 2

Adopt the accompanying budget ordinance to establish revenue estimates for State grant funds of \$12,653 and local cash funding of \$4,218, and to appropriate total funding of \$16,871 in accounts to be established by the Director of Finance in the Grant Fund as follows:

#### Appropriation:

<u>Description</u>	<u>Account</u>	<u>Amount</u>
Temporary Employee Wages	1004	\$12,880
FICA	1120	\$ 985
Expendable Equipment	2035	<u>\$ 3,006</u>
Total		\$16,871

Respectfully submitted,

Darlene L. Burcham

City Manager

c: Mary F. Parker, City Clerk
William M. Hackworth, City Attorney
Jesse A. Hall, Director of Finance
Rolanda B. Russell, Assistant City Manager for Community Development
A. L. Gaskins, Chief of Police

CM06-00137

The

#### IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA

A RESOLUTION accepting the Crime Analysis Grant offer made to the City by the Department of Criminal Justice Services, and authorizing execution of any required documentation on behalf of the City.

BE IT RESOLVED by the Council of the City of Roanoke as follows:

1. The City of Roanoke does hereby accept the Crime Analysis Grant offered by the Department of Criminal Justice Services, in the amount of \$12,653.00 with a local match of

\$4,218.00, upon all the terms, provisions and conditions relating to the receipt of such funds.

The grant is more particularly described in the letter of the City Manager to Council dated

August 7, 2006.

2. The City Manager and the City Clerk are hereby authorized to execute, seal, and

attest, respectively, the grant agreement and all necessary documents required to accept the grant.

all such documents to be approved as to form by the City Attorney.

3. The City Manager is further directed to furnish such additional information as

may be required in connection with the City's acceptance of this grant.

ATTEST:



#### IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA

AN ORDINANCE to appropriate funding from the Commonwealth of Virginia for the Crime Analysis Grant, amending and reordaining certain sections of the 2006-2007 Grant Fund Appropriations, and dispensing with the second reading by title of this ordinance.

BE IT ORDAINED by the Council of the City of Roanoke that the following sections of the 2006-2007 Grant Fund Appropriations be, and the same are hereby, amended and reordained to read and provide as follows:

Appropriations		
Temporary Employee Wages	35-640-3452-1004	\$ 12,880
FICA	35-640-3452-1120	985
Expendable Équipment	35-640-3452-2035	3,006
Revenues		
Crime Analysis Grant FY07	35-640-3452-3452	12,653
Crime Analysis Grant Local Match FY07	35-640-3452-3453	4,218

Pursuant to the provisions of Section 12 of the City Charter, the second reading of this ordinance by title is hereby dispensed with.

#### ATTEST:



Noel C. Taylor Municipal Building 215 Church Avenue, S.W., Room 364 Roanoke, Virginia 24011-1591 Telephone: (540) 853-2333 Fax: (540) 853-1138 City Web: www.roanokeva.gov

August 7, 2006

Honorable C. Nelson Harris, Mayor
Honorable David B. Trinkle, Vice Mayor
Honorable Beverly T. Fitzpatrick, Jr., Council Member
Honorable Alfred T. Dowe, Jr., Council Member
Honorable Sherman P. Lea, Council Member
Honorable Gwendolyn W. Mason, Council Member
Honorable Brian J. Wishneff, Council Member

Dear Mayor Harris and Members of City Council:

Subject:

Rescue Squad Assistance Fund

Grant Acceptance

#### Background:

The Virginia Department of Health, Office of Emergency Medical Services administers a Rescue Squad Assistance Fund (RSAF) grant program that awards grants twice annually. In March 2006, Roanoke Fire-EMS applied for this grant in order to purchase a Ford Type III Ambulance and medical monitoring equipment.

In 2006, the State Office of Emergency Medical Services awarded Roanoke Fire-EMS a grant of \$42,235 towards the purchase of an ambulance with a bid, if accepted, of \$89,794. The grant requires a \$47,559 local match. Sufficient matching funding for this grant is budgeted in Fleet Management - Vehicular Equipment (17-440-2642-9010).

#### Considerations:

City Council action is needed to formally accept and appropriate these funds, and authorize the Director of Finance to establish revenue estimates and appropriate accounts to purchase the equipment and supplies in accordance with provisions of this grant.

The Honorable Mayor and Members of Council August 7, 2006 Page 2

#### Recommended Action:

Accept the grant as described above and authorize the City Manager to execute any required grant agreements or documents such to be approved as to form by the City Attorney.

Adopt the accompanying budget ordinance to establish revenue estimates in the amount of \$42,235 (RSAF Grant) and \$47,559 (RSAF Local Match), to transfer \$47,559 in local match funding from the Fleet Management Fund (17-440-2642-9010) and to appropriate funding \$89,794 to an expenditure account to be established by the Director of Finance in the Grant Fund.

Respectfully submitted,

Darlene L. Burcham

City Manager

#### DLB:tb

Mary F. Parker, City Clerk
 William M. Hackworth, City Attorney
 Jesse A. Hall, Director of Finance
 James Grigsby, Acting Assistant City Manager for Operations
 David Hoback, Acting Fire-EMS Chief
 Sherman M. Stovall, Director of Management and Budget
 Ken Bernard, Fleet Manager

CM06-00139

6.a.2.

Jus

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA

A RESOLUTION accepting the Rescue Squad Assistance Fund grant offer made to the

City by the Virginia Department of Health, Office of Emergency Medical Services, and

authorizing execution of any required documentation on behalf of the City.

BE IT RESOLVED by the Council of the City of Roanoke as follows:

1. The City of Roanoke does hereby accept the Rescue Squad Assistance Fund grant

offered by the Virginia Department of Health, Office of Emergency Medical Services, in the

amount of \$42,235 with a local match of \$47,559, upon all the terms, provisions and conditions

relating to the receipt of such funds for the purchase of an ambulance. The grant is more

particularly described in the letter of the City Manager to Council dated August 7, 2006.

2. The City Manager and the City Clerk are hereby authorized to execute, seal, and

attest, respectively, the grant agreement and all necessary documents required to accept the grant,

all such documents to be approved as to form by the City Attorney.

3. The City Manager is further directed to furnish such additional information as

may be required in connection with the City's acceptance of this grant.

ATTEST:



#### IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA

AN ORDINANCE to appropriate funding from the Commonwealth of Virginia for the Rescue Squad Assistance Fund (RSAF) Grant, amending and reordaining certain sections of the 2006-2007 Grant and Fleet Management Funds Appropriations, and dispensing with the second reading by title of this ordinance.

BE IT ORDAINED by the Council of the City of Roanoke that the following sections of the 2006-2007 Grant and Fleet Management Funds Appropriations be, and the same are hereby, amended and reordained to read and provide as follows:

<b>Grant Fund</b>				
Appropriations				
Vehicular Equipment	35-520-3570-9010	\$ 89,794		
Revenues				
RSAF – Ambulance – State FY07	35-520-3570-3570	42,235		
RSAF – Ambulance – Fleet FY07	35-520-3570-3571	47,559		
Fleet Management Fund Appropriations				
Vehicular Equipment	17-440-2642-9010	(47,559)		
Transfer to Grant Fund	17-440-2643-9535	47,559		

Pursuant to the provisions of Section 12 of the City Charter, the second reading of this ordinance by title is hereby dispensed with.

ATTEST:



Noel C. Taylor Municipal Building 215 Church Avenue, S.W., Room 364 Roanoke, Virginia 24011-1591 Telephone: (540) 853-2333 Fax: (540) 853-1138 City Web: www.roanokeva.gov

August 7, 2006

Honorable C. Nelson Harris, Mayor Honorable David B. Trinkle, Vice-Mayor Honorable Alfred T. Dowe, Jr., Council Member Honorable Beverly T. Fitzpatrick, Jr., Council Member Honorable Sherman P. Lea, Council Member Honorable Gwendolyn W. Mason, Council Member Honorable Brian J. Wishneff, Council Member

Dear Mayor Smith and Members of City Council:

Subject: Virginia Commission for the Arts

Local Government Challenge

Grant

#### Background:

Notification has been received from the Commonwealth of Virginia Commission for the Arts that a \$5,000 Local Government Challenge Grant has been awarded to the City of Roanoke. Application for the grant was made at the request of the Arts Council of Roanoke Valley, Mill Mountain Theatre, Opera Roanoke, Roanoke Ballet Theater, Inc., Roanoke Symphony Orchestra, and Young Audiences of Virginia.

#### Considerations:

In order to receive these funds, the Commission must obtain written confirmation that local funds will be used to match or exceed the amount of the grant. For Fiscal Year 2006-07, the organizations receiving grant funds will also receive local funding through the Roanoke Arts Commission in the amounts shown below:

•	Arts Council of Blue Ridge	\$16,800
	Mill Mountain Theatre	14,000
•	Opera Roanoke	11,900
•	Roanoke Ballet Theatre, Inc.	7,200
•	Roanoke Symphony Orchestra	32,000
•	Young Audiences of Virginia	7,250

Mayor and Members of City Council August 7, 2006 Page 2

#### Recommended Action(s):

Adopt the attached resolution authorizing the acceptance of this grant.

Adopt the accompanying budget ordinance to establish a revenue estimate in the amount of \$5,000 and to appropriate funding in the same amount to accounts to be established by the Director of Finance in the Grant Fund as outlined below.

Arts Council of Blue Ridge	\$833
Mill Mountain Theatre	833
Opera Roanoke	833
Roanoke Ballet Theatre, Inc.	834
Roanoke Symphony Orchestra	833
Young Audiences of Virginia	834

Respectfully submitted,

Darlene L. Burkham

City Manager

DLB:acm

#### Attachment

c: Mary F. Parker, City Clerk
William M. Hackworth, City Attorney
Jesse A. Hall, Director of Finance
Sherman M. Stovall, Director of Management & Budget

NWR

#### IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA

A RESOLUTION accepting the Local Government Challenge Grant made to the City from the Commonwealth of Virginia Commission for the Arts, and authorizing execution of any required documentation on behalf of the City.

BE IT RESOLVED by the Council of the City of Roanoke as follows:

- 1. The City of Roanoke does hereby accept the Local Government Challenge Grant in the amount of \$5,000 upon all the terms, provisions, and conditions relating to the receipt of such funds, all as is more particularly described in the letter of the City Manager to Council dated August 7, 2006.
- 2. The City Manager and the City Clerk are hereby authorized to execute, seal, and attest, respectively, the grant agreement and all necessary documents required to accept the grant that may be required for the City's acceptance of this grant, all such documents to be approved as to form by the City Attorney.
- 3. The City Manager is further directed to furnish such additional information as may be required in connection with the City's acceptance of this grant.

ATTEST:



#### IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA

AN ORDINANCE to appropriate funding from the Commonwealth of Virginia for the Local Government Challenge Grant, amending and reordaining certain sections of the 2006-2007 Grant Fund Appropriations, and dispensing with the second reading by title of this ordinance.

BE IT ORDAINED by the Council of the City of Roanoke that the following sections of the 2006-2007 Grant Fund Appropriations be, and the same are hereby, amended and reordained to read and provide as follows:

Appropriations		
Roanoke Symphony Orchestra	35-410-8741-3736	\$ 833
Arts Council Of The Blue Ridge	35-410-8741-3737	 833
Mill Mountain Theatre	35-410-8741-3749	833
Opera Roanoke	35-410-8741-3762	833
Roanoke Ballet Theatre, Inc.	35-410-8741-3779	834
Young Audiences of Virginia	35-410-8741-3802	834
Revenues		
Local Challenge Grant FY07	35-410-8741-8741	5,000

Pursuant to the provisions of Section 12 of the City Charter, the second reading of this ordinance by title is hereby dispensed with.

#### ATTEST:



Noel C. Taylor Municipal Building 215 Church Avenue, S.W., Room 364 Roanoke, Virginia 24011-1591 Telephone: (540) 853-2333 Fax: (540) 853-1138

Fax: (540) 853-1138 City Web: www.roanokeva.gov

August 7, 2006

Honorable C. Nelson Harris, Mayor Honorable David B. Trinkle, Vice Mayor Honorable Alfred T. Dowe, Jr., Council Member Honorable Beverly T. Fitzpatrick, Jr., Council Member Honorable Sherman P. Lea, Council Member Honorable Gwendolyn W. Mason, Council Member Honorable Brian J. Wishneff, Council Member

> Subject: Driving Under the Influence and Other Types of Accident Recovery Program Fee Increase

Dear Mayor Harris and Members of City Council:

#### Background:

Pursuant to Virginia Code Section 15.2-1716, on December 15, 2003, City Council adopted an ordinance authorizing a fee of \$100 to be imposed on those individuals convicted of DUI and certain other offences within the City, to help offset the expenses of responding to such accidents. This fee is separate from and in addition to any fines and/or costs imposed by the courts. This past session the General Assembly amended Section 15.2-1716 to allow localities to provide by ordinance that the courts order restitution to the locality at the time of sentencing. Section 15.2-1716 also allows a locality to bill a flat fee of \$250 or a minute-by-minute accounting of the actual cost incurred, not to exceed the aggregate of \$1,000.

#### Considerations:

The changes enacted by the General Assembly to Section 15.2-1716 make it easier for localities to collect restitution for the City's expenses in responding to a calls from the person convicted of violating an ordinance adopted pursuant to Section 15.2-1716. The courts will now be able to order this civil restitution at the time of sentencing. This process should create a more efficient and effective process for collecting this fee. Increasing the flat fee from \$100 to

Honorable Mayor Harris and Members of City Council August 7, 2006 Page 2

\$250 will serve to continue to enhance our efforts to make our streets safer and allow the City to recoup a greater portion of the cost of public resources expended in response to incidents covered by the City's ordinance.

Roanoke's General District Court will continue to provide the Police Department with a post-court docket, which identifies those individuals found liable for the fee. Using the information provided through the docket, each offender will be billed by Police Department staff for the amount of civil restitution ordered by the court using the City's billing system. Currently, billing is separate and apart from the court system fines. The City Administration will continue to work with the Commonwealth Attorney and the Clerk's Office to coordinate the City's collection efforts for this fee.

Additional projected annual revenue is estimated at approximately \$15,000. Funds recovered through this program would be used by the Police Department to purchase traffic/DUI enforcement equipment and related educational materials to enhance our efforts to combat drunk driving.

#### Recommended Action:

Adopt an ordinance amending Section 20-17, <u>Reimbursement of expenses received in responding to DUI incidents and other traffic incidents</u>, Code of the City of Roanoke (1979), as amended, to have the courts find persons convicted of violating the City's ordinance liable for restitution at the time of sentencing and to increase the flat fee to \$250.

Adopt the accompanying budget ordinance to increase the revenue estimate for DUI Offender Fees (01-110-1234-1412) by \$15,000 and appropriate funding the same amount to Expendable Equipment (01-640-3113-2035).

Respectfully submitted,

Óarlene L. Bur**∉**ham

City Manager

DLB:mds

c: Mary F. Parker, City Clerk
William M. Hackworth, City Attorney
Jesse A. Hall, Director of Finance

Honorable Mayor Harris and Members of City Council August 7, 2006 Page 3

> Rolanda B. Russell, Assistant City Manager A. L. Gaskins, Chief of Police Ron S. Albright, General District Court Clerk Dana D. Long, Manager of Billings & Collections

> > CM06-0129

#### IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA

AN ORDINANCE amending Section 20-17, Reimbursement of expenses incurred in responding to DUI incidents and other traffic incidents, Article I, In General, of Chapter 20, Motor Vehicles and Traffic, Code of the City of Roanoke (1979), as amended; and dispensing with the second reading by title of this ordinance.

BE IT ORDAINED by the Council of the City of Roanoke as follows:

1. The Code of the City of Roanoke (1979), as amended, is hereby amended and reordained by amending Section 20-17, Reimbursement of expenses incurred in responding to DUI incidents and other traffic incidents, Article I, In General, of Chapter 20, Motor Vehicles and Traffic, to read and provide as follows:

#### ARTICLE I

#### IN GENERAL

- § 20-17 Reimbursement of expenses incurred in responding to DUI incidents and other traffic incidents.
- A. A person convicted of violating any of the following provisions shall be liable in a separate civil action for reasonable expenses for restitution at the time of sentencing for reasonable expenses incurred by the city or by any responding volunteer fire or rescue squad, or both, when providing an appropriate emergency response to any accident or incident related to such violation:
  - 1. The provisions of § § 18.2-51.4, 18.2-266 or 29.1-738 of the Code of Virginia (1950), as amended, or similar city ordinances including § 20-52, when such operation of a motor vehicle, engine, train or watercraft while so impaired is the proximate cause of the accident or incident:

- 2. The provisions of Article 7 (§ 46.2-852 et seq.) of Chapter 8 of Title 46.2 of the Code of Virginia (1950), as amended, relating to reckless driving, when such reckless driving is the proximate cause of the accident or incident;
- 3. The provisions of Article 1 (§ 46.2-300 et seq.) of Chapter 3 of Title 46.2 of the Code of Virginia (1950), as amended, relating to driving without a license or driving with a suspended or revoked license; and
- 4. The provisions of § 46.2-894 of the Code of Virginia (1950), as amended, relating to improperly leaving the scene of an accident.
- B. Personal liability under this section for reasonable expenses of an appropriate emergency response shall not exceed one thousand dollars (\$1,000) in the aggregate for a particular accident or incident occurring in the city. In determining the "reasonable expenses," the city may bill a flat fee of one hundred dollars (\$100) two hundred and fifty dollars (\$250.00) or a minute by minute accounting of the actual costs incurred. As used in this section, "appropriate emergency response" includes all costs of providing law-enforcement, fire-fighting, rescue, and emergency medical services. The provisions of this section shall not preempt or limit any remedy available to the Commonwealth, to the city, or to any volunteer rescue squad to recover the reasonable expenses of an emergency response to an accident or incident not involving impaired driving, operations of a vehicle or other conduct as set forth herein.
- 2. Pursuant to Section 12 of the City Charter, the second reading of this ordinance by title is hereby dispensed with.

ATTEST:



#### IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA

AN ORDINANCE to appropriate additional funding from Driving Under the Influence (DUI) Recovery Program Fees, amending and reordaining certain sections of the 2006-2007 General Fund Appropriations, and dispensing with the second reading by title of this ordinance.

BE IT ORDAINED by the Council of the City of Roanoke that the following sections of the 2006-2007 General Fund Appropriations be, and the same are hereby, amended and reordained to read and provide as follows:

**Appropriations** 

Expendable Equipment

01-640-3113-2035

15,000

Revenues

DUI Offender Fee

01-110-1234-1412

15,000

Pursuant to the provisions of Section 12 of the City Charter, the second reading of this ordinance by title is hereby dispensed with.

ATTEST:



Noel C. Taylor Municipal Building 215 Church Avenue, S.W., Room 364 Roanoke, Virginia 24011-1591 Telephone: (540) 853-2333 Fax: (540) 853-1138 City Web: www.roanokeva.gov August 7, 2006

Honorable C. Nelson Harris, Mayor Honorable David B. Trinkle, Vice Mayor Honorable Alfred T. Dowe, Jr., Council Member Honorable Beverly T. Fitzpatrick, Jr., Council Mayor Honorable Sherman P. Lea, Council Member Honorable Gwendolyn W. Mason, Council Member Honorable Brian J. Wishneff, Council Member

Dear Mayor Harris and Members of City Council:

Subject: Amendment of Section 6-24 of the Code of the City of Roanoke (1979), as amended, to permit dogs in the City Market area

#### Background:

The City's goal to attract upscale residential housing in the downtown area is continuing to be met by the adaptive reuse of many older buildings in the downtown area. These housing units are attracting both young professionals as well as mature retirees who desire the amenities of downtown living. Some downtown residents are dog owners, and under current City Code provisions, dogs are prohibited in the Market Square area.

In order to accommodate the needs of a growing number of residents in our downtown area and our desire to accommodate their animals, it is proposed that the Code be amended to accommodate those dogs, except in areas of the Market where outdoor dining is occurring.

#### Recommended Action:

Adopt the accompanying ordinance amending Section 6-24, Code of the City of Roanoke to delete the prohibition against dogs in the Market Square.

Respectfully submitted,

Darlene L. Burcham

City Manager

## DLB:f

# Attachment

CC:

Mary F. Parker, City Clerk William M. Hackworth, City Attorney Jesse A. Hall, Director of Finance

R. Brian Townsend, Director, Planning Building and Economic

Development

CM06-00132



### IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA

AN ORDINANCE amending §6-24, <u>Prohibited in public halls, restaurants, etc.</u>, of Article II, <u>Dogs Generally</u>, of Chapter 6, <u>Animals and Fowl</u>, Code of the City of Roanoke to delete the prohibition against dogs in the market square; and dispensing with the second reading by title of this ordinance.

BE IT ORDAINED by the Council of the City of Roanoke that:

1. Section 6-24, <u>Prohibited in public halls, restaurants, etc.</u>, of Article II <u>Dogs Generally</u>, of Chapter 6, <u>Animals and Fowl</u>, Code of the City of Roanoke, be, and it is hereby amended to read and provide as follows:

### Section 6-234. Prohibited in public halls, restaurants, etc.

- (a) It shall be unlawful for the owner of any dog to allow, cause or permit such dog to enter any public hall, restaurant, *outdoor dining area*, ice cream parlor, *or* the public market building or the market square at any time, or any office or store during the time that such office or store is open for public business, whether or not the dog is muzzled or on leash or otherwise under the immediate control of such owner.
- (b) It shall be unlawful for the owner of any dog to allow, cause or permit such dog to be in any hallway of any building occupied by two (2) or more families, unless such dog is effectively caged, muzzled or physically carried or held by leash by a person thoroughly capable, physically and mentally, of controlling such dog.
- (c) The provisions of this section shall not apply to "seeing-eye" dogs properly trained to assist blind persons, when such dogs are actually being used by blind persons for the purpose of aiding them in going from place to place.

2.	Pursuant to the provisions of Section 12 of the City Charter, the second		
reading of t	reading of this ordinance by title is hereby dispensed with.		
	ATTEST:		
	City Clerk.		

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# **CITY OF ROANOKE**OFFICE OF THE CITY MANAGER

Noel C. Taylor Municipal Building 215 Church Avenue, S.W., Room 364 Roanoke, Virginia 24011-1591 Telephone: (540) 853-2333 Fax: (540) 853-1138 City Web: www.roanokeva.gov

August 7, 2006

Honorable C. Nelson Harris, Mayor Honorable David B. Trinkle, Vice Mayor Honorable Alfred T. Dowe, Jr., Council Member Honorable Beverley T. Fitzpatrick, Jr., Council Member Honorable Sherman P. Lea, Council Member Honorable Gwendolyn W. Mason, Council Member Honorable Brian J. Wishneff, Council Member

Dear Mayor Harris and Members of City Council:

Subject: Amend Fee for Sale of

Containers

## Background:

Since 1997, the City has been providing 96-gallon automated trash containers for residents and small business owners to use in the disposal of their trash. One container is provided to each property owner at no charge. If a second container is requested/needed, the City's policy is to sell the property owner additional containers. Container cost increases suggest that a new sale price is needed.

### Recommended action:

City Council amend the Fee Compendium to increase both the sale and replacement price of automated trash containers from \$51.95 to \$60.00.

Respectfully submitted,

Darlene L. Burcham

City Manager

# DLB:sd/mc

c: Mary F. Parker, City Clerk
William M. Hackworth, City Attorney
Jesse A. Hall, Director of Finance
Sherman M. Stovall, Director of Management and Budget
James Grigsby, Assistant City Manager Operations
Robert K. Bengtson, Director of Public Works

CM06-00136

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### IN THE COUNCIL FOR THE CITY OF ROANOKE, VIRGINIA,

A RESOLUTION amending the City's Fee Compendium to establish a fee for a second or additional 96-gallon automated trash container fee for residents and small business owners to use in the disposal of their trash; and providing for an effective date.

BE IT RESOLVED by the Council of the City of Roanoke that:

1. The following fee shall be charged for a second or additional 96-gallon automated trash container for residents and small business owners to use in the disposal of their trash, as the first container is provided to each resident and small business owner at no charge:

Second or additional 96-gallon automated trash container fee:

\$60.00

2. The Fee Compendium of the City, maintained by the Director of Finance and authorized and approved by City Council by Resolution No. 32412-032795, adopted March 27, 1995, effective as of that date, as amended, shall be amended to reflect the new fee for purchasing a second or additional 96-gallon automated trash container for residents and small business owners to use in the disposal of their trash, as the first container is provided to each resident and small business owner at no charge.

	3.	Resolution No. 32412-032795 is hereby amended to the extent and only to the
	C	
extent	of any	inconsistency with this Resolution.

4. The fee established by this Resolution will become effective immediately upon its passage, and shall remain in effect until amended by this Council.

ATTEST:

City Clerk.



# CITY OF ROANOKE OFFICE OF THE CITY MANAGER

Noel C. Taylor Municipal Building 215 Church Avenue, S.W., Room 364 Roanoke, Virginia 24011-1591 Telephone: (540) 853-2333 Fax: (540) 853-1138 City Web: www.roanokeva.gov

August 7, 2006

Honorable C. Nelson Harris, Mayor Honorable David B. Trinkle, Vice Mayor Honorable Alfred T. Dowe, Jr., Council Member Honorable Beverly T. Fitzpatrick, Jr., Council Member Honorable Sherman P. Lea. Council Member Honorable Gwendolyn W. Mason, Council Member Honorable Brian I. Wishneff, Council Member

Dear Mayor Harris and Members of City Council:

Subject:

Amendments No. 1 to Two Contracts for Three Year Bridge. Culvert, Sign, and Parking Garage Inspection Program (2005-2007)

Year Two of Three

In 1978 Congress passed the Surface Transportation Act, requiring that all bridges over 20 feet in length, including "off Federal Aid System" structures, and overhead traffic signs be inspected annually or biannually, depending on construction type. In addition, the City of Roanoke includes the pedestrian tunnel on Jefferson Street under the Norfolk Southern tracks on an annual basis, various culverts on a biannual basis, and City owned parking garages on a 2- or 4-year cycle. Inspections are due this calendar year on 25 annually inspected bridges, 30 biannually inspected bridges, 14 overhead traffic signs, three (3) culverts, the pedestrian tunnel, and the Church Avenue Parking Garage. Two (2) bridges also need to be load rated.

Contracts were awarded on July 28, 2005, to Hayes, Seay, Mattern & Mattern, Inc., and Mattern & Craig, Inc., for the Three Year Bridge, Culvert, Sign, and Parking Garage Inspection Program (2005 - 2007) with years two and three to be negotiated based on the number of structures to be inspected in each of those subsequent years. Hayes, Seay, Mattern & Mattern, Inc., has agreed to inspect 20 bridges, three (3) culverts, and 14 overhead traffic signs for the cost of \$69,900 for year two. Mattern & Craig, Inc., has agreed to inspect 35 bridges, the pedestrian tunnel, Church Avenue Parking Garage, and load rate two (2) bridges for the cost of \$83,400 for year two.

Honorable Mayor and Members of Council August 7, 2006 Page 2

Funding in the amount of \$153,300 is available for the second year amendment in account number 01-530-4310-3072, Engineering-Bridge Inspections.

### Recommended Action:

Authorize the City Manager to execute separate Amendments No. 1 for additional engineering services for the above work with Hayes, Seay, Mattern & Mattern, Inc., and Mattern & Craig, Inc., in the amounts of \$69,900 and \$83,400, respectively, for the second year (2006) for bridge, culvert, sign, tunnel, and parking garage inspection services. These contracts may be extended for one additional one-year term upon mutual agreement of the parties at a fee agreed to by the parties based on the number of structures to be inspected.

Respectfully submitted,

Darlene L. Burcham

City Manager

# DLB/KDK/dps

c: William M. Hackworth, City Attorney
Mary F. Parker, City Clerk
Jesse A. Hall, Director of Finance
Robert K. Bengtson, Director of Public Works
Philip C. Schirmer, PE, LS, City Engineer
Karl D. Kleinhenz, Civil Engineer

CM06-00143

PIT

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA,

A RESOLUTION authorizing the City Manager's issuance and execution of Amendment No.

1 to the City's Three Year Bridge, Culvert, Sign, and Parking Garage Inspection contract with Hayes,

Seay, Mattern & Mattern, Inc., for additional engineering services for the second year of the contract.

BE IT RESOLVED by the Council of the City of Roanoke that:

1. The City Manager is hereby authorized, for and on behalf of the City, to issue and

execute Amendment No. 1 to the City's Three Year Bridge, Culvert, Sign, and Parking Garage

Inspection contract with Hayes, Seay, Mattern & Mattern, Inc., for additional engineering services,

all as more fully set forth in the City Manager's letter to Council dated August 7, 2006.

2. The form of the Amendment shall be approved by the City Attorney.

3. Such Amendment No. 1 will provide authorization for additions to the work, with an

increase in the amount of the contract of an additional \$69,900.00, all as set forth in the above letter.

ATTEST:

City Clerk.

p.T.

### IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA,

A RESOLUTION authorizing the City Manager's issuance and execution of Amendment No.

1 to the City's Three Year Bridge, Culvert, Sign, and Parking Garage Inspection contract with Mattern & Craig, Inc., for additional engineering services for the second year of the contract.

BE IT RESOLVED by the Council of the City of Roanoke that:

- 1. The City Manager is hereby authorized, for and on behalf of the City, to issue and execute Amendment No. 1 to the City's Three Year Bridge, Culvert, Sign, and Parking Garage Inspection contract with Mattern & Craig, Inc., for additional engineering services, all as more fully set forth in the City Manager's letter to Council dated August 7, 2006.
  - 2. The form of the Amendment to shall be approved by the City Attorney.
- 3. Such Amendment No. 1 will provide authorization for additions to the work, with an increase in the amount of the contract of an additional \$83,400.00, all as set forth in the above letter.

ATTEST:

City Clerk.



# **CITY OF ROANOKE**OFFICE OF THE CITY MANAGER

Noel C. Taylor Municipal Building 215 Church Avenue, S.W., Room 364 Roanoke, Virginia 24011-1591 Telephone: (540) 853-2333 Fax: (540) 853-1138

Fax: (540) 853-1138 City Web: www.roanokeva.gov

August 7, 2006

Honorable C. Nelson Harris, Mayor Honorable David B. Trinkle, Vice Mayor Honorable Alfred T. Dowe, Jr., Council Member Honorable Beverly T. Fitzpatrick, Jr., Council Member Honorable Sherman P. Lea, Council Member Honorable Gwendolyn W. Mason, Council Member Honorable Brian J. Wishneff, Council Member

Dear Mayor Harris and Members of Council:

Subject: Fourth Amendment to Lease between the City of Roanoke and the Commonwealth of Virginia

### Background:

On July 1, 1985, the City began leasing space in the Commonwealth Building, located at 210 Church Ave., to the Commonwealth of Virginia, Department of General Services (DGS) /Division of Engineering and Buildings. The Department of General Services located several departments of the Commonwealth on the ground, first, and third floors of the property including the Department of Corrections. The original Lease term was for twenty (20) years and expired June 30, 2005. The parties agreed to an amendment to the Lease Agreement extending the term one year, which expired on June 30, 2006.

Negotiations have been on going with the DGS for extending the original lease and regarding certain terms that the current lease contains. In addition, as of July 1, 2006, the Commonwealth of Virginia requires notice be given to landowners surrounding Department of Corrections locations before any lease may be entered into or renewed for that Department. The DGS has requested an extension while they perform the due diligence necessary to sign an amendment for a new term. An extension of four months, from July 1, 2006 until October 31, 2006, will allow the necessary notification to be performed and allow the parties time to negotiate any final terms of the lease amendment.

Mayor Harris and Member of City Council August 7, 2006 Page 2

### Recommended Action:

Authorize the City Manager to execute the appropriate document, approved as to form by the City Attorney, to amend the Lease Agreement dated March 28, 1984, extending the existing rental terms of the lease with the Commonwealth of Virginia Department of General Services, Division of Engineering and Buildings, for space located in the Commonwealth Building at 210 Church, Avenue, SW for four months commencing July 1, 2006 and expiring on October 31, 2006. The proposed amendment shall be in accordance with the provisions outlined in the attached Amendment.

Respectfully submitted,

Darlene L. Burcham

City Manager

DLB:lpp

c: Mary F. Parker, City Clerk
William M. Hackworth, City Attorney
Jesse A. Hall, Director of Finance
Brian Townsend, Director of Planning Building and Economic Development
Lisa Poindexter-Plaia, Economic Development Specialist

CM06-00131

# FOURTH AMENDMENT TO LEASE BETWEEN THE CITY OF ROANOKE AND THE COMMONWEALTH OF VIRGINIA

ROANOKE, VIRGINIA (the "Lessor") at Department of General Services (the "Les Agriculture and Consumer Services, Department Services, Department of Blind and Vision Department of Corrections (the "Amendme	ease (the "Lease") dated March 28, 1984, as
	rd Amendment to Lease, dated December 20, able square feet, was extended for a period of expiring on June 30, 2006.
NOW THEREAFTER, it is agree amended as follows:	ed that the Lease be further modified and
	agree that the Lease term is extended for an on July 1, 2006 and expiring on October 31,
2. All other provisions of the I effect.	Lease remain unchanged and in full force and
IN WITNESS WHEREOF, this Fou executed by the parties by their authorized in	rth Amendment to Lease has been duly representatives.
LESSOR:	CITY OF ROANOKE, VIRGINIA
	By:City Manager
ATTEST:	

By: City Clerk

APPROVED AS TO FORM:	
Ву:	<del></del>
By: Assistant City Attorney	
LESSEE	E: COMMONWEALTH OF VIRGINIA, DEPARTMENT OF GENERAL SERVICES
	By: Richard F. Sliwoski, P.E., Director
RECOMMEND APPROVAL:	
DEPARTMENT OF GENERAL SERV and its Division of Engineering and Bu	
By:  Richard F. Sliwoski, P.E., Directo	or
APPROVED FOR THE GOVERNOR	
the authority delegated to me under	of the Code of Virginia (1950), as amended, and by Executive Order No.88(01), dated December 21, Amendment to Lease and the execution of this ernor of Virginia.
	Secretary of Administration
Doto	
Date:	

)/C

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA,

AN ORDINANCE authorizing a fourth amendment to an existing lease for office space of

City owned property known as the Commonwealth Building, located at 210 Church Avenue,

between the City of Roanoke and the Commonwealth of Virginia, Department of General Services/

Division of Engineering and Buildings, for an extension of such lease for a term of four months.

upon certain terms and conditions, and dispensing with the second reading of this ordinance by title

BE IT ORDAINED by the Council of the City of Roanoke as follows:

1. The City Manager and City Clerk are hereby authorized, for and on behalf of the

City, to execute and attest, respectively, upon form approved by the City Attorney, a fourth

amendment to the lease between the City of Roanoke and the Commonwealth of Virginia,

Department of General Services/ Division of Engineering and Buildings, extending such lease for a

term of four months, commencing July 1, 2006, and terminating on October 31, 2006, upon the same

terms and conditions as the existing lease, as further stated in the City Manager's letter to Council

dated August 7, 2006.

2. Pursuant to the provisions of Section 12 of the City Charter, the second reading of this

ordinance by title is hereby dispensed with.

ATTEST:

City Clerk.



# **CITY OF ROANOKE**OFFICE OF THE CITY MANAGER

Noel C. Taylor Municipal Building 215 Church Avenue, S.W., Room 364 Roanoke, Virginia 24011-1591 Telephone: (540) 853-2333 Fax: (540) 853-1138 City Web: www.roanokeva.gov

August 7, 2006

Honorable C. Nelson Harris, Mayor Honorable David B. Trinkle, Vice-Mayor Honorable Alfred T. Dowe, Jr., Council Member Honorable Beverly T. Fitzpatrick, Jr., Council Member Honorable Sherman P. Lea, Council Member Honorable Gwendolyn W. Mason, Council Member Honorable Brian J. Wishneff, Council Member

Dear Mayor Harris and Members of Council:

Subject: Amendment No. 1 to the 2004-

2005 CDBG- and HOME-funded "Park Street Square" Agreement with the Roanoke Redevelop-ment and Housing Authority ("RRHA")

## Background:

At its meeting on June 6, 2005, by Resolution No. 37085-060605, City Council approved an amendment to the City's 2000-2005 Consolidated Plan to facilitate RRHA completion of the Northwest Neighborhood Environmental Organization's ("NNEO") "Fifth Street Gateway Project," since renamed the "Park Street Square Project." In addition, the June 2005 resolution also authorized execution of a subgrant agreement between the City and the RRHA, transferring access to the RRHA to the first \$700,000 of a \$2.35 million commitment of Community Development Block Grant ("CDBG") and HOME Investment Partnership Program ("HOME") funds originally made to NNEO. At its continuation meeting held May 11, 2006, by Resolution No. 37391-051106, City Council approved the 2006-2007 Annual Update to the Consolidated Plan, which includes a second installment of \$700,000 in CDBG and HOME funding for the Park Street Square Project.

### Considerations:

In order to provide access to the additional funding, City Council authorization is needed for the City Manager to execute an amendment to the current contract.

The Honorable Mayor and Members of Council August 7, 2006 Page 2

With this amendment, a total of \$1.4 million of the \$2.35 million commitment in CDBG and HOME funds will have been made available to the RRHA. The third and final installment for the balance of the \$2.35 million commitment is planned as part of the budgeting process for the FY 2007-2008 period.

### Recommended Action:

Authorize the City Manager to execute Amendment No. 1 to the 2004-2005 CDBG/HOME Agreement with the RRHA, similar in form and content to the draft attached to this report, and approved as to form by the City Attorney.

Respectfully submitted,

Darlene L. Burcham

City Manager V

DLB:fb

### Attachment

c: Mary F. Parker, City Clerk
William M. Hackworth, City Attorney
Jesse A. Hall, Director of Finance
Rolanda B. Russell, Assistant City Manager for Community Development
Ford P. Weber, Director of Housing and Neighborhood Services
Frank E. Baratta, Budget Team Leader

CM06-00138

# AMENDMENT No. 1

This Amendment No. 1 is made and entered into this first day of July 2006 by and between the City of Roanoke, Virginia, ("Grantee") and City of Roanoke Redevelopment and Housing Authority ("Subgrantee").

### WITNESSETH:

WHEREAS, by Resolution No. 37085-060605, the Council of the City of Roanoke, Virginia, ("Council") approved the execution of a subgrant agreement between the Grantee and the Subgrantee ("Agreement"); and

WHEREAS, by Resolution No. 37391-051106, Council approved the Grantee's 2006-2007 Consolidated Plan Annual Update for submission to the U.S. Department of Housing and Urban Development ("HUD"), providing for, among other purposes, additional Community Development Block Grant ("CDBG") and HOME Investment Partnership Program ("HOME") funding for the Subgrantee's activities under the Agreement; and

WHEREAS, by Resolution No. 37423-061906 and by Ordinance No. 37422-061906, Council accepted and appropriated the 2006-2007 CDBG and HOME funds; and

WHEREAS, by Resolution No. \_\_\_\_\_\_, Council approved the execution of this Amendment No. 1 to the Agreement, which extends the period of the Agreement, increases the funding, and makes certain other technical changes;

NOW, THEREFORE, the Grantee and the Subgrantee do mutually agree to this Amendment No. 1, to effect the following changes:

1. Part 1, "SCOPE OF SERVICES," subpart a., "Period of this Agreement," shall be revised to extend the period and shall read:

\* \* \* \* \*

1.a. Period of this Agreement – This Agreement shall be effective as of February 1, 2005, and, unless amended, shall end June 30, 2008.

\* \* \* \* \*

2. Part 1, "SCOPE OF SERVICES," subpart h., "Allowable Expenditures," shall be revised to replace the reference to the "Department of Management and Budget" by the "Department of Housing and Neighborhood Services," so as to read:

\* \* \* \* \*

1.h. Allowable Expenditures – Except as otherwise provided in this Agreement, funds made available by the Grantee may be disbursed to the Subgrantee for any necessary expenditure allowable under the CDBG or HOME rules. Such expenditures may include, but need not be limited to, the costs of land

acquisition, clearance, infrastructure and other site improvements, architectural and engineering services, environmental studies, construction labor and materials, and overhead costs associated with the Project. Absent prior approval of the Grantee's Department of Housing and Neighborhood Services, the Subgrantee shall not use funds provided under this Agreement to acquire (1) any nonexpendable personal property, including equipment, (2) any real property at a price exceeding the value determined through appraisal, city assessment or other appropriate method or (3) acquire any property that is or would be occupied by legal tenants after the initial acquisition contact with the owner. Under no circumstances shall funds be expended for liens, fines or penalties associated with any property acquired or to be acquired. The maximum amount of HOME funds that may be expended to assist a unit shall comply with the limits specified in section 11.a. below.

\* \* \* \* \*

3. Part 2, "<u>REQUESTS FOR DISBURSEMENT OF FUNDS</u>," subpart a., shall be revised to replace the reference to the "Department of Management and Budget" by the "Department of Housing and Neighborhood Services," so as to read:

\* \* \* \* \*

2.a. Disbursement of funds under this Agreement shall be requested no more frequently than monthly and shall be limited to the amount required for the payment of eligible costs. Requests shall be submitted for review and approval to the Grantee's Department of Housing and Neighborhood Services, or such other office as the Grantee may designate.

\* \* \* \* \*

4. Part 5, "ENFORCEMENT OF THE AGREEMENT," subpart b., shall be revised to replace the reference to the "Department of Management and Budget" by the "Department of Housing and Neighborhood Services," so as to read:

\* \* \* \* \*

5.b. In the event the Subgrantee, without prior written approval from the Grantee's Department of Housing and Neighborhood Services, terminates the project prior to completing all units for which HOME funds have been disbursed, the Subgrantee shall be liable for repayment of all HOME project, administrative or operating funds disbursements, whether or not expended.

\* \* \* \* \*

5. Part 8, "<u>REPORTING REQUIREMENTS</u>," subpart a., shall be revised to replace the reference to the "Department of Management and Budget" by the "Department of Housing and Neighborhood Services," so as to read:

**~** ~ ~ ~ ~ ~

8.a. The Subgrantee shall report quarterly to the Grantee's Department of Housing and Neighborhood Services regarding its progress on the Project, including, but not be limited to:

\* \* \* \* \*

6. Part 9, "MONITORING," shall be revised to replace the reference to the "Department of Management and Budget" by the "Department of Housing and Neighborhood Services," so as to read:

\* \* \* \* \*

## 9. MONITORING:

The Subgrantee shall monitor the progress of the Project covered by this Agreement, and shall submit appropriate reports to the Grantee's Department of Housing and Neighborhood Services. In addition, it is the Grantee's intention to monitor the Subgrantee's performance and financial and programmatic compliance, which may include on-site reviews, at least once during the period of this Agreement.

\* \* \* \* \*

7. Part 10, "ANNUAL AUDIT," shall be revised to replace the reference to the "Department of Management and Budget" by the "Department of Housing and Neighborhood Services," so as to read:

\* \* \* \* \*

### 10. ANNUAL AUDIT:

As an entity receiving more than \$300,000 in federal funding from the Grantee, the Subgrantee shall provide for an annual independent audit of the CDBG/HOME expenditures under this Agreement that complies with OMB Circular A-133. Within 30 days following its completion, two (2) copies of the audit will be provided to the Grantee's Department of Housing and Neighborhood Services.

\* \* \* \* \*

8. Part 11, "OTHER PROGRAM/PROJECT REQUIREMENTS," subpart g., "Environmental standards," shall be revised to replace the reference to the "Department of Management and Budget" by the "Department of Housing and Neighborhood Services," so as to read:

\* \* \* \* \*

11.g. Environmental standards – In accordance with 24 CFR 85.36, 92.352 and 570.604, the activities under this Agreement are subject to environmental review requirements. Such requirements include, but are not necessarily limited to, historic significance, floodplain, clean air and hazardous sites. The Grantee has performed the tiered review necessary to initiate the preliminary program activities; however, no CDBG funds may be expended for a given property prior to the Subgrantee's completing its individual property review, any required remedial actions and required Subgrantee environmental checklist, which must include all compliance categories specified by HUD and the Grantee. Where acquisition of property is authorized, the Subgrantee will conduct, directly or through qualified entities, at minimum an "environmental transaction screen," which consists of a review of the property's history and a site visit to determine the condition of the property. All property acquisitions shall be contingent upon satisfactory results of the screen, and, where dictated by the screen, further environmental phases. All specifications for proposed housing rehabilitation under this Agreement shall be submitted to the Grantee's Department of Housing and Neighborhood Services for review as to compliance with Section 106 of the National Historic Preservation Act. These specifications shall also be reviewed by the Grantee's Environmental Administrator to determine whether the potential for disturbing lead and other hazardous materials, such as asbestos, has been adequately taken into account. The Subgrantee agrees to adjust work specifications or activities in such manner as may be requested by the Grantee to ensure compliance with environmental requirements. The results of the historic and other environmental review activities shall be reflected in the Subgrantee's environmental checklist for the unit and/or project site(s).

\* \* \* \* \*

9. Part 11, "OTHER PROGRAM/PROJECT REQUIREMENTS," subpart j., "Debarment and suspension," shall be revised to replace the reference to the "Department of Management and Budget" by the "Department of Housing and Neighborhood Services," so as to read:

\* \* \* \* \*

11.j. <u>Debarment and suspension</u> – In accordance with 24 CFR 24, the Subgrantee shall not employ or otherwise engage any debarred, suspended, or ineligible contractors or subcontractors to conduct any activities under this Agreement. The Subgrantee will consult appropriate references, including, but not limited to, the Excluded Parties Listing Service website at <a href="http://epls.arnet.gov">http://epls.arnet.gov</a>, to ascertain the status of any third parties prior to engaging their services. The Subgrantee will submit to the Grantee's Department of Housing and Neighborhood Services the names of contractors and subcontractors selected under this Agreement, including a certification by the Subgrantee that it has determined that none of these entities are presently debarred, suspended, or ineligible.

\* \* \* \* \*

10. Part 24, "NOTICE," subpart j., "Debarment and suspension," shall be revised to redesignate the Subgrantee's contact person for official notices, so as to read:

\* \* \* \* \*

To the Subgrantee: Ellis Henry, Executive Director

Roanoke Redevelopment and Housing Authority

2624 Salem Turnpike, NW

Roanoke, VA 24017

\* \* \* \* \*

11. The CDBG and HOME funding made available by the Grantee under this Agreement shall be increased by \$700,000 to a total of \$1,400,000, in accordance with the revised Attachment A, "2004/2005 Park Street Square CDBG and HOME Agreement Financial Accounts," included with this Amendment No. 1.

The Agreement, dated February 1, 2005, shall remain unchanged in all other terms and provisions.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment No. 1 as of the day and year hereinabove written:

ATTEST:	FOR THE GRANTEE:
Bv	Rv
Mary F. Parker, City Clerk	Darlene L. Burcham, City Manager

WITNESS:	FOR THE SUBGRANTEE:			
By Sue Marie Worline, Executive Assistant	By Ellis Henry, Executive Director			
APPROVED AS TO CDBG/HOME ELIGIBILITY	APPROVED AS TO FORM			
Dept. of Housing and Neighborhood Services	Assistant City Attorney			
APPROVED AS TO EXECUTION	APPROPRIATION AND FUNDS REQUIRED FOR THIS CONTRACT CERTIFIED			
Assistant City Attorney	Director of Finance			
	Date (See Attachment A)			

(This space intentionally left blank.)

### Attachment A Amendment 1

# 2004/2005 Park Street Square CDBG and HOME Agreement Financial Accounts

Account #	Description	Project	Support	Admin	Total
CDBG Funds:					
35-G04-0420-5428	Park Street Square	200,000			200,000
35-G05-0520-5428	Park Street Square	250,000			250,000
35-G07-0720-5428	Park Street Square	250,000			250,000
	Subtotal	700,000	0	0	700,000
HOME Funds:					
35-090-5312-5428	Park Street Square	245,182			245,182
35-090-5313-5428	Park Street Square	77,098			77,098
35-090-5325-5428	Park Street Square	8,612			8,612
35-090-5364-5428	Park Street Square	369,108	,		369,108
	Subtotal	700,000	0	0	700,000
	Total CDBG and HOME	1,400,000	0	0	1,400,000

MANY

IN THE COUNCIL FOR THE CITY OF ROANOKE, VIRGINIA,

A RESOLUTION authorizing the appropriate City officials to execute Amendment No. 1 to

the 2004-2005 Community Development Block Grant and HOME Investment Partnership Program

Agreement with the Roanoke Redevelopment and Housing Authority, upon certain terms and

conditions.

BE IT RESOLVED by the Council of the City of Roanoke that the City Manager or Assistant

City Manager, and the City Clerk, are hereby authorized to execute and attest, respectively, on behalf

of the City, Amendment No. 1 to the 2004-2005 Community Development Block Grant and HOME

Investment Partnership Program Agreement with the Roanoke Redevelopment and Housing

Authority to provide access by the Housing Authority to funds for the "Park Street Square" project

and other matters, and any additional necessary documents related to such Agreement and

Amendment No. 1, such documents to be approved as to form by the City Attorney, as more

particularly set out in the City Manager's letter dated August 7, 2006, to City Council.

ATTEST:

City Clerk.



# **CITY OF ROANOKE**OFFICE OF THE CITY MANAGER

Noel C. Taylor Municipal Building 215 Church Avenue, S.W., Room 364 Roanoke, Virginia 24011-1591 Telephone: (540) 853-2333 Fax: (540) 853-1138 City Web: www.roanokeva.gov

August 7, 2006

Honorable C. Nelson Harris, Mayor Honorable David B. Trinkle, Vice-Mayor Honorable Alfred T. Dowe, Jr., Council Member Honorable Beverly T. Fitzpatrick, Jr., Council Member Honorable Sherman P. Lea, Council Member Honorable Gwendolyn W. Mason, Council Member Honorable Brian J. Wishneff, Council Member

Dear Mayor Harris and Members of Council:

Subject: Sale of City Owned Property and Release of Restrictive Covenants

## Background:

The City of Roanoke owns property known as Tract 12, located at the entrance of the Roanoke Centre for Industry and Technology (RCIT). The property is an 11.067 acre parcel located at the intersection of Orange Avenue, NE, and Blue Hills Drive, NE, identified as Tax Map No. 7160113.

A prospective buyer has submitted a concept plan for a proposed commercial development of the property which provides for retail, restaurant, hotel, office, day care, and other commercial uses. The prospective buyer is an entity named Blue Hills Village, LLC. The City desires to sell the property for \$150,000 per acre, subject to the buyer developing the property in substantial conformity with the concept plan. City staff has negotiated a contract of sale with such buyer that provides for the buyer to comply with obligations concerning the development of the property. A copy of such contract is attached to this letter as Attachment A.

To permit the proposed development to occur, the property must be released from the restrictive covenants that are applicable to the property at RCIT. The covenants provide that they can be released if the owners or lessees, other than the City, of more than fifty percent, in area, of the total property that comprises RCIT, consent to such release.

The Honorable Mayor and Members of Council August 7, 2006 Page 2

### Considerations:

The concept plan proposes development which is consistent with *Vision 2001-2020* and the *Hollins/Wildwood Area Plan*. Commercial development on this site at the entrance to RCIT will complement industrial development by providing accessible goods and services near this major employment center. The proposed development is consistent with the current zoning of the property, which is CG, Commercial-General District (conditional).

The restrictive covenants on the subject property need to be released in order for the prospective buyer to develop the property. The covenants were designed to guide the development of large-scale industrial sites and do not accommodate the type of commercial development being considered for Tract 12. Staff is working with the land owners in RCIT to obtain their consent to release the covenants as to Tract 12.

City Council held a public hearing on July 17, 2006, to consider the sale of the property and to authorize execution of a deed of release releasing the property from the restrictive covenants. Two citizens spoke concerning the future development of the property. Following the public hearing, the City Council tabled the matter until its August 7, 2006, meeting.

### Recommended Action:

Authorize the City Manager to execute a contract for the sale of the property substantially similar to the one attached to this letter.

Authorize the City Manager to execute a Deed of Release that will release the property, Tax Map No. 7160113, from the restrictive covenants applicable to RCIT, once the approvals needed for such a release have been obtained.

Authorize the City Manager to execute such further documents and take such further action as may be necessary to accomplish the above matters and to complete the sale of the above-mentioned property to Blue Hills Village, LLC. The form of all such documents is to be approved by the City Attorney.

Respectfully submitted,

Darlene L. Burcham

City Managér

### **Attachments**

c: Mary F. Parker, City Clerk
William M. Hackworth, City Attorney
Jesse A. Hall, Director of Finance
R. Brian Townsend, Director of Planning Building and Economic Development

CM06-00141

### **DRAFT 07-11-06**

### CONTRACT FOR PURCHASE AND SALE OF REAL PROPERTY

This Contract For Purchase and Sale of Real Property (Contract) is dated \_\_\_\_\_\_\_, 2006, by and between the City of Roanoke, Virginia, a Virginia municipal corporation (Seller), and Blue Hills Village, LLC, a Virginia limited liability company (Buyer),

### WITNESSETH:

WHEREAS, Seller is desirous of selling certain property and Buyer is desirous of acquiring such property upon the terms and conditions set forth below; and

WHEREAS, Buyer will construct on such property located at the entrance of the Roanoke Centre for Industry and Technology (RCIT) in the City of Roanoke a subdivision allowing for separate ownership and development of the several lots or sites after initial development by Buyer of semi-finished pads, or sites, with roadways, utilities and other infrastructure, exclusive of buildings, in place.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions herein set forth, and other good and valuable consideration, the receipt and sufficiency of which is acknowledged by the parties hereto, Seller and Buyer hereby agree as follows:

### **SECTION 1. DEFINITIONS.**

Unless the context otherwise specifies or requires, for the purpose of this Contract, the following terms shall have the meanings set forth in this Section:

<u>Closing:</u> The consummation of this Contract by Seller's delivery of a Deed to the Property to Buyer.

**Closing Date:** The date provided for in Section 14 hereof for the Closing.

<u>Contemplated Use:</u> The development of the Property by the Buyer or its successors according to the Blue Hills Village Concept Plan dated March 13, 2006, which is attached hereto and made a part hereof as Exhibit 1.

<u>Improvements</u>: Any and all improvements, and all appurtenances thereto, located on the Property at the time of Closing.

**Property:** The real property located at the entrance of RCIT in the City of Roanoke, Virginia, designated as Tract 12, bearing Official Tax Map No. 7160113, and containing approximately 11.0677 acres and being designated on the attached drawing, which is made a part hereof and marked as Exhibit 2. Such real property is located at the intersection of Orange Avenue and Blue Hills Drive.

Restrictive Covenants: Those restrictive covenants set forth in two Deeds of Restriction, one titled "Deed of Restriction – Roanoke Centre For Industry and Technology" dated December 6, 1983, and recorded in Deed Book 1495, page 1797, and the second titled "Deed of Restriction Addition to Roanoke Centre for Industry and Technology" dated April 2, 1992, and recorded in Deed Book 1656, page 00869, in the Clerk's Office of the Circuit Court for the City of Roanoke, Virginia.

<u>Title Commitment:</u> A commitment for title insurance in favor of Buyer for the Property to be issued by a Title Company.

Title Company: Any nationally recognized title insurance company acceptable to Buyer.

<u>Survey:</u> A current, certified plat of survey of the Property showing all existing construction, all boundary lines, easements, set-back requirements, parking areas, encroachments, the RCIT sign, and such other conditions as might be expected to be shown on a plat prepared by a professional certified engineer for lender approval.

### SECTION 2. PURCHASE AND SALE OF PROPERTY.

- A. Seller agrees to sell the Property to Buyer, and Buyer agrees to purchase the Property from Seller, upon all the terms, covenants, and conditions set forth in this Contract.
- B. The purchase price for the Property (Purchase Price) shall be One Hundred Fifty Thousand and no/100 Dollars (\$150,000.00) per acre and a proportionate part of that amount for any fraction of an acre for a total Purchase Price of \$1,660,155.00 or such greater or lesser amount as may be increased or decreased by any change in the acreage of the Property, payable in cash or certified check from Buyer to Seller at Closing.

### **SECTION 3. EARNEST MONEY DEPOSIT.**

Buyer, concurrently with its execution of this Contact, has deposited with Seller a Twenty-five Thousand Dollar and no/100 (\$25,000.00) certified check payable to the Seller as an earnest money deposit (Deposit). On the Closing Date, this check shall be cashed by Seller and applied against the Purchase Price for the Property. In the event Closing occurs or the Seller is entitled pursuant to this Contract to retain the Deposit or a part thereof, Seller shall be entitled to cash this check and retain the money due Seller. In the event Buyer is entitled to a refund of the Deposit or a part of the Deposit, Seller shall promptly either return the certified check to the Buyer or cash such check and return only such percentage of the money as the Buyer may be entitled to under the Contract. Seller hereby agrees to hold, keep, cash, or deliver the Deposit in accordance with the terms and provisions of this Contract. Such Deposit is nonrefundable except only for those specific items otherwise set forth in this Contract.

## **SECTION 4. CONDITIONS FOR COMPLETION OF CONTRACT.**

- A. As a condition precedent to Buyer's obligation to purchase the Property or otherwise to perform any obligation provided for in this Contract, the Seller, as of the Closing shall have complied with the Seller's representations and warranties in Section 13 of this Contract, and the fulfillment to the Buyer's reasonable satisfaction of the Seller's delivery to Buyer on the Closing Date of title to the Property and other documents as prescribed in Section 14(D). As a condition precedent to Seller's obligation to sell the Property or otherwise perform any obligation provided for in this Contract, the Buyer, as of the Closing, shall have complied with the Buyer's representations and warranties in this Contract.
- B. As a condition precedent to Buyer's obligation to purchase the Property, the Buyer and Seller agree to cooperate and use reasonable efforts to remove and/or release the Restrictive Covenants currently applicable to the Property. However, if such Restrictive Covenants are not removed and/or released from the Property by the

Closing Date, the Buyer, at its option, may elect not to purchase the Property by giving the Seller written notice of such election and this Contract will then be deemed to be terminated and Seller shall return seventy-five (75) percent of the Deposit to Buyer, with the Seller retaining the other twenty-five (25) percent of the Deposit to help cover Seller's costs and efforts for tying to remove and/or release such Restrictive Covenants.

- C. Buyer and/or Seller may, at any time on or before the Closing Date, at its election, waive any of the conditions precedent in this Section 4 in writing, and Buyer's and Seller's consummation of the Transaction on the Closing Date shall waive all such conditions precedent.
- D. In the event Closing has not occurred through no fault of the Seller on or before 45 days after the date of this Contract, the Seller, at its election, by written notice given to the Buyer, may terminate this Contract. Such written notice shall give Buyer ten (10) days from the date of such notice in which to deliver the Purchase Price and proceed with Closing. If Closing has not occurred within that ten (10) day period through no fault of the Seller, this Contract shall automatically be terminated without further action. In the event of such termination, the Seller shall retain the full amount of the Deposit and this Contract shall be deemed terminated and of no further force and effect.
- E. Buyer shall have until thirty (30) days after the date of this Contract to complete its due diligence review of the Property (Due Diligence Period) and determine if there are any environmental, geotechnical, or title problems with the Property that would prevent the use of the Property. Should Buyer reasonably determine during such Due Diligence Period that the Property cannot be used by the Buyer due to environmental or title problems, the Buyer shall notify the Seller in writing as soon as possible, but in no event not later than 5 calendar days after the end of such Due Diligence Period, of Buyer's decision to terminate the Contract for such reason. In such case, the Seller shall refund the Deposit and this Contract shall thereupon be terminated and of no further force and effect. However, should Buyer fail to notify Seller as set forth above, then the Deposit shall remain nonrefundable.
- F. In connection with the Buyer's ability to conduct its due diligence review mentioned above, the Seller hereby grants to Buyer, its officers, agents, employees, contractors, subcontractors, licensees, designees, representatives and consultants, a revocable right to enter upon the Property at any time during the due diligence period, upon two (2) working days prior written notice to the Seller, in order to survey, make test borings, and carry out such other examinations, exploratory work, or testings as may be necessary to complete a Phase I and Phase II Environmental Assessments, or geotechnical assessments, of the Property upon the following terms and conditions:
  - 1. If the Buyer exceeds its rights granted under this Section or fails to obtain and maintain the insurance required by this Section 4, the Seller may immediately revoke this right of entry.
  - 2. Buyer agrees to be responsible for any and all damages resulting from the activity or activities of Buyer, its officers, agents, employees, contractors,

subcontractors, licensees, designees, representatives and consultants, on the Property in the exercise of the rights granted under this Section 4. Buyer shall, at its sole cost, promptly and fully restore any land disturbed by the exercise of the rights under this Section 4 to a condition equal to that existing immediately prior to entry on the Property.

- Buyer agrees and binds itself and its successors and assigns to indemnify, 3. keep and hold the Seller and its officers, agents, employees, volunteers, and representatives free and harmless from any and all liability, claims, causes of action, costs and damages of any type, including attorney's fees, on account of any injury or damage of any type to any person or property growing out of or directly or indirectly resulting from any act or omission of Buyer including, but not limited to, Buyer's use of the Property in violation of the provision of this Contract or the exercise of any right or privilege granted by or under this Section 4. In the event that any suit or proceeding shall be brought against the Seller or any of its officers, employees, agents, volunteers, or representatives, at law or in equity, either independently or jointly with Buyer, its officers, employees, contractors, subcontractors, licensees, designees, representatives and consultants, on account thereof, Buyer, upon notice given to it by the Seller or any of its officers, employees, agents, volunteers or representatives will pay all costs of defending the Seller or any of its officers, employees, agents, volunteers or representatives in any such action or other proceeding. In the event of any settlement or any final judgment being awarded against the Seller or any of its officers, employees, agents, volunteers or representatives, either independently or jointly with Buyer, its officers, employees, contractors, subcontractors, licensees, representatives and consultants, then Buyer will pay such settlement or judgment in full or will comply with such order or decree, pay all costs and expenses of whatsoever nature, including attorney's fees, and hold the Seller or any of its officers, employees, agents, volunteers or representatives harmless therefrom.
- 4. Buyer shall, at its sole expense, obtain and maintain, or have its contractors or representatives obtain and maintain, the insurance set forth below. Any required insurance shall be effective prior to the beginning of any work or other performance by Seller under Section 4. The following policies and coverages are required:
  - (i) Commercial General Liability. Commercial General Liability insurance, written on an occurrence basis, shall insure against all claims, loss, cost, damage, expense or liability from loss of life or damage or injury to persons or property arising out of Buyer's acts or omissions. The minimum limits of liability for this coverage shall be \$1,000,000 combined single limit for any one occurrence.
  - (ii) <u>Contractual Liability</u>. Broad form Contractual Liability insurance shall include the indemnification obligation set forth above.

- Workers' Compensation. Workers' Compensation insurance covering Buyer's statutory obligation under the laws of the Commonwealth of Virginia and Employer's Liability insurance shall be maintained for all its employees engaged in work under this Section 4. Minimum limits of liability for Employer's Liability shall be \$100,000 bodily injury by accident each occurrence; \$500,000 bodily injury by disease (policy limit); and \$100,000 bodily injury by disease (each employee). With respect to Workers' Compensation coverage, Buyer's insurance company shall waive rights of subrogation against the Seller, its officers, employees, agents, volunteers and representatives.
- (iv) <u>Automobile Liability</u>. The minimum limit of liability for Automobile Liability Insurance shall be \$1,000,000 combined single limit applicable to owned or non-owned vehicles used in the performance of any work under this Section 4 and shall be written on an occurrence basis.
- 5. The insurance coverages and amounts set forth above may be met by an umbrella liability policy following the form of the underlying primary coverage in a minimum amount of \$1,000,000. Should an umbrella liability insurance coverage policy be used, such coverage shall be accompanied by a certificate of endorsement stating that it applies to the specific policy numbers indicated for the insurance providing the coverages required by this section, and it is further agreed that such statement shall be made a part of the certificate of insurance furnished by Buyer to the Seller.
- 6. All insurance shall also meet the following requirements:
  - (i) Buyer shall furnish the Seller a certificate or certificates of insurance showing the type, amount, effective dates and date of expiration of the policies. Certificates of insurance shall include any insurance deductibles.
  - (ii) The required certificate or certificates of insurance shall include substantially the following statement: "The insurance covered by this certificate shall not be canceled or materially altered, except after thirty (30) days written notice has been provided to the Risk Management Officer for the City of Roanoke."
  - (iii) The required certificate or certificates of insurance shall name the City of Roanoke, its officers, employees, agents, volunteers, and representatives as additional insureds.
  - (iv) Where waiver of subrogation is required with respect to any policy of insurance required under this Section 4, such waiver shall be specified on the certificate of insurance.

- (v) Insurance coverage shall be in a form and with an insurance company approved the Seller which approval shall not be unreasonably withheld. Any insurance company providing coverage under paragraph 6 shall be authorized to do business in the Commonwealth of Virginia.
- G. Upon the request of Seller, Buyer, its officers, agents, employees, contractors, subcontractors, licensees, designees, representatives and consultants, shall within a reasonable period of time after receipt of any preliminary or final test results or conclusory reports and opinion statements, deliver copies of same to Seller. If Seller so requests, Buyer shall also turn over copies of raw data obtained and any laboratory and observation reports or analyses. Such copies of all the above shall be provided to Seller without charge.
- H. Buyer, its officers, agents, employees, contractors, subcontractors, licensees, designees, representatives and consultants, shall at all times comply with all applicable federal, state, and local laws, rules, and regulations. Buyer, its officers, agents, employees, contractors, subcontractors, licensees, designees, representatives and consultants, prior to exercising any rights under Section 4, shall obtain, at their cost, any and all required permits and/or licenses for any such work.

### SECTION 5. BUYER'S AND SELLER'S OBLIGATIONS.

- A. Seller agrees that it will do the following:
  - 1. Seller agrees to sell to Buyer the real property located in RCIT in the City of Roanoke, Virginia, designated as Tract 12, bearing Official Tax Map No. 7160113, and containing approximately 11.0677 acres and being designated in Exhibit 2, for the Purchase Price of \$150,000.00 per acre and a proportionate part of that amount for any fraction of an acre for a total Purchase Price of \$1,660,155.00 or such greater or lesser amount as may be increased or decreased by any change in the acreage of the Property.
  - 2. Seller will deliver to the Buyer a deed at closing in accordance with the terms of this Contract.
  - 3. Seller will use reasonable efforts, in cooperation with the Buyer's reasonable efforts, to remove and/or release the Property from the Restrictive Covenants which currently apply to the Property.
- B. Buyer agrees and promises that it will do the following:
  - 1. Buyer will purchase the Property from the Seller for the Purchase Price of \$150,000.00 per acre and a proportionate part of that amount for any fraction of an acre for a total Purchase Price of \$1,660,155.00 or such greater or lesser amount as may be increased or decreased by any change in the acreage of the

Property and will make payment in accordance with the terms of this Contract.

- 2. Buyer will cooperate with Seller in Seller's efforts to remove and release the Property from the Restrictive Covenants mentioned above.
- Buyer agrees that the Seller may reserve to itself a permanent easement over 3. the Property and/or the Buyer will grant to the Seller a permanent easement and/or right of the Seller to construct, move, and/or maintain a monument and/or sign of a size and appearance equivalent to the sign that is now in the general location of the entrance to RCIT so that such sign will be in the same general location for the purpose of identifying the entrance for the Roanoke Centre for Industry and Technology. Notwithstanding the foregoing, the width of the easement providing for the existing sign or other sign to be constructed on the Property shall not exceed 20 feet in width around the entire sign in addition to the area occupied by the sign itself, together with the easement for ingress and egress which shall not exceed 20 feet in width and will be shown on the Survey. Any replacement sign or monument constructed by Seller on the Property must be located within 10 feet of the existing sign on the Property, all of which shall be reflected on the Survey. The Buyer and Seller agree that the sign will be situated and lettered in a way that identifies Blue Hills Drive, NE, as the entrance to RCIT without indicating that the Property that the Buyer is buying is part of RCIT. Furthermore, the Buyer agrees that the provision of any such easement or right to the Seller shall be at no cost to the Seller, provided, however, that the cost of moving and/or erecting and/or maintaining any such monument or sign shall be sole cost of the Seller and not the Buyer. Any such right includes that right of egress and ingress for the Seller to maintain, move, and/or replace any such monument or sign, all at no cost to the Seller for any such right of ingress or egress.
- 4. The Buyer agrees to develop the Property in a timely manner and in substantial conformity with the Blue Hills Village Concept Plan dated March 13, 2006, attached hereto as Exhibit 1. Substantial conformity shall mean that the buildings actually built on each lot must be used for the purposes identified on such Plan (i.e., a hotel must be built on the lot where the hotel is shown on such Plan, etc.) However, the size and the placement of buildings on each lot may be changed at the Buyer's or subsequent grantee's or lessee's reasonable discretion, but any such changes must be within the limits allowed by and be subject to all applicable laws, local codes, and ordinances. For clarification purposes, such development of the Property does not include lot 1 shown on the Blue Hills Village Concept Plan that is located in Roanoke County.
- 5. Buyer agrees to develop any aboveground stormwater management facilities that it may be required to provide or that it may elect to provide and if any part of such a facility is located within 150 feet of a public right-of-way such facility will be developed in a manner that does not detract from the

appearance of the entrance to RCIT and more specifically to include, but not necessarily be limited to the following:

- (a) Such stormwater facilities will not use riprap or other stone for permanent slope stabilization. However, such materials shall be used for erosion sediment control purposes during the construction of such facilities.
- (b) Such stormwater management facilities will be designed so as not to require permanent fencing around such stormwater facilities.
- (c) Such stormwater management facilities will be fully landscaped with grass and other appropriate plant material which shall be maintained in a neat appearance by the Buyer or those who may purchase from the Buyer, or be designed as wet detention basins.
- (d) The slope of any stormwater management facilities basin walls shall not exceed 3:1.
- (e) Such stormwater management facilities standpipes, where provided, shall be within the embankments and not aboveground.
- 6. Buyer agrees to have a Survey of the Property performed at Buyer's sole cost and shall provide Seller, at no charge, with a copy of such Survey within 5 business days after completion of such Survey.
- C. Buyer agrees and shall install street trees along both sides of the public street that will be developed within the City of Roanoke. The species and types of trees shall be selected from the list of medium to large street trees in the VDOT approved design manual, Appendix B, Subdivision for Street Design Guide and shall be subject to approval by the City of Roanoke's Public Works Director and there shall be a minimum of 50 feet spacing for any such trees.
- Buyer agrees to place in the deeds and contracts of any entities to which Buyer sells or D. transfers any part or all of the Property that such entities are bound by and subject to the conditions set forth in this Contract and that the conditions and obligations of this Contract will survive the Closing and execution of the deed for the Property, the intent being that the Seller shall be named by the Buyer as a third party beneficiary in all such contracts and deeds and shall be able to enforce the obligations of the Buyer set forth in this Contract on the Buyer or any of the Buyer's subpurchasers and/or grantees until the initial development of each lot and the building thereon in accordance with the Blue Hills Village Concept Plan has been completed as set forth herein. Completion of such initial development of each lot will be deemed to have occurred when a permanent certificate of occupancy for the lot and building thereon has been issued and such lot and building is in accordance with the Blue Hills Village Concept Plan. When such permanent certificate of occupancy has been issued as set forth above, the obligations under this Contract of the then current owner of the lot to which the certificate applies shall be deemed to have been satisfied as to the Seller and no future inclusion of the obligations of this Contract to that

specific lot needs to be included in future transfers of such lot. However, the obligations under this Contract shall continue as to any other lots and/or parts of the Property that do not meet the conditions set forth above.

E. The Buyer agrees that the conditions and obligations of the Buyer under this Contract are conditions and obligations that will be incorporated either directly or by reference in any deed to the Property from the Seller to the Buyer and will survive Closing.

#### SECTION 6. COMPLIANCE WITH LAWS.

Buyer agrees to comply with all applicable federal, state, and local laws, rules, and regulations.

#### **SECTION 7. NONDISCRIMINATION.**

- A. During the performance or term of this Contract and the development and operation of the Property, Buyer agrees as follows:
  - i. Buyer will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of Buyer. Buyer agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
  - ii. Buyer in all solicitations or advertisements for employees placed by or on behalf of Buyer will state Buyer is an equal opportunity employer.
  - iii. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.

Buyer will include the provisions of the foregoing Section A (i, ii, and iii) in every subcontract or purchase order of over \$50,000, so that the provisions will be binding upon each subcontractor or vendor.

#### **SECTION 8. ASSIGNMENT.**

Buyer agrees not to assign or transfer any part of this Contract without the prior written consent of the Seller, which will not be unreasonably withheld, and any such assignment shall not relieve Buyer from any of its obligations under this Contract.

#### **SECTION 9. INDEMNITY.**

Buyer agrees to indemnify and hold harmless the City and their officers, directors, and employees free and harmless for and from any and all claims, causes of action, damages or any liability of any type, including reasonable attorney's fees, on account of any claims by or any

injury or damage to any persons or property growing out of or directly or indirectly resulting or arising in any way out of any actions, omissions, or activities of Buyer or its agents, employees or representatives arising out of or connected in any way to any of the matters involved in this Contract or any performance thereunder.

#### SECTION 10. FORUM SELECTION AND CHOICE OF LAW.

By virtue of entering into this Contract, Buyer agrees and submits itself to a court of competent jurisdiction in the City of Roanoke, Virginia, and further agrees this Contract is controlled by the laws of the Commonwealth of Virginia, with the exception of Virginia's conflict of law provisions which shall not apply, and all claims, disputes and other matters shall be decided only by such court according to the laws of the Commonwealth of Virginia as aforesaid. Buyer further waives and agrees not to assert in any such action, suit or proceeding, that it is not personally subject to the jurisdiction of such courts, that the action, suit or proceeding, is brought in an inconvenient forum or that the venue of the action, suit or proceeding, is improper.

#### **SECTION 11. EASEMENTS.**

Buyer promises and agrees to grant and dedicate to the Seller and/or the Western Virginia Water Authority all reasonably necessary easements on Buyer's Property for the construction of infrastructure improvements needed for or benefiting the Property or surrounding areas, including, but not limited to, storm drainage, sanitary sewers, and/or water, all at no cost to the Seller and/or the Western Virginia Water Authority, so long as any such easement for a third party is located within 20 feet of a right-of-way line or property line.

#### **SECTION 12. APPROPRIATION OF FUNDS.**

All obligations or funding undertaken by the Seller in connection with the Contract are subject to the availability of funds and the appropriation of such funds by City Council as may be necessary for such obligations or funding.

#### **SECTION 13. COVENANTS AND WARRANTIES.**

- A. In addition to any representations and warranties contained elsewhere in this Contract, Seller warrants and represents that Seller will, in accordance with this Contract, convey title to the Property free and clear of all liens, covenants, conditions, restrictions, right-of-ways, easements, and encumbrances of any kind or character whatsoever, except as noted in this Contract and in the Conditions of Title described in Section 14 below.
- B. The Seller further represents and warrants with respect to the Property that:
  - 1. <u>Title</u>. Seller has good and marketable fee simple title to the Property subject to any restrictions of record. Seller is the sole owner of the Property.
  - 2. <u>Condemnation</u>. Seller has no knowledge of any pending or threatened proceedings for condemnation or the exercise of the right of eminent domain as to any part of the Property or the limiting or denying of any right of access thereto.

- 3. <u>No Special Taxes</u>. Seller has no knowledge of, nor has it received any notice of, any special taxes or assessments relating to the Property or any part thereof.
- 4. <u>Hazardous Materials</u>. Seller has not had any environmental assessments performed with regard to the Property. However, to the best of the Seller's knowledge, no toxic or hazardous materials have been used, discharged or stored on or about the Property, and to the best of the Seller's knowledge no such toxic or hazardous materials are now or will be at Closing located on the surface of the Property.
- 5. No Leases. There are no leases of the Property.
- 6. <u>Access</u>. (i) Ingress to and egress from the Property is available and provided by public streets dedicated to the City of Roanoke; and (ii) all roads bounding the Property are public roads dedicated to the City of Roanoke.

#### SECTION 14. TITLE AND CLOSING.

- A. Title to the Property, in accordance with the Survey, shall be conveyed by Seller to Buyer by good and sufficient general warranty deed (the "Deed") subject to no exceptions other than the following:
  - 1. Ad valorem real property taxes for the current year, not yet due and payable;
  - 2. The Restrictive Covenants, unless they are removed and/or released, in which case the Property will not be subject to such Restrictive Covenants;
  - 3. Those matters of title to which Buyer has not objected to in writing;
  - 4. Those matters reflected on the Survey to which Buyer has not objected to in writing;
  - 5. Easements and other restrictions of record as of the date of execution of this Contract by Seller that do not substantially affect Buyer's Contemplated Use;
  - 6. Liens and objections shown on the Title Commitment;
  - 7. Other customary and usual exceptions not adversely affecting title; and
  - 8. Those items and matters set forth in this Contract and that the obligations and undertakings of the Buyer in this Contract will survive Closing and be incorporated into the Deed.All of the foregoing exceptions are herein referred to collectively as the "Conditions of Title."
- B. Delivery of title in accordance with the foregoing shall be evidenced by the willingness on the Closing Date of the Title Company to issue, upon payment of its normal premium, to Buyer its A.L.T.A. (Form B) Owner's Policy of Title Insurance (the "Title Policy")

- insuring Buyer in the amount of the Purchase Price in respect to the Property and that title to the Property is vested in Buyer subject only to the Conditions of Title.
- C. Buyer and Seller shall consummate this transaction on or before a date which is 45 days following the date of this Contract (the "Closing Date"), with the specific Closing date being designated by Buyer in writing to Seller at least five (5) days in advance thereof.
- D. The purchase and sale of the Property shall be closed (the "Closing") at 10:00 A.M. on the Closing Date in the Office of the City Attorney, or at such other location and time as shall be approved by Buyer and Seller.
  - (1) On the Closing Date, Seller shall deliver or cause to be delivered to Buyer the following documents:
    - a) Its duly executed and acknowledged General Warranty Deed conveying to Buyer the Property in accordance with the provisions of this Contract;
    - b) A mechanic's lien affidavit executed by a representative of Seller, satisfactory to the Title Company, and to the effect that no work has been performed on the Property in the one hundred twenty-five (125) days immediately preceding the Closing Date that could result in a mechanic's lien claim, or, if such work has been performed, it has been paid for in full;
    - c) Such evidence and documents including, without limitation, a certified copy of the ordinance adopted by the Seller, as may reasonably be required by the Title Company evidencing the authority of the person(s) executing the various documents on behalf of Seller in connection with its sale of the Property;
    - d) A duly executed counterpart of a Closing Statement;
    - e) Any other items required to be delivered pursuant to this Contract.
- E. At Closing, real property taxes shall be prorated with Buyer being responsible for all periods thereafter.
- F. Buyer shall pay for (i) the cost of all investigations of the Property including but not limited to examination of title and title insurance premiums for issuance of the Title Policy; (ii) all attorney's fees and expenses incurred by legal counsel to Buyer; and (iii) any Grantee's tax and recording costs required to be paid in connection with the recording of the Deed.
- G. Seller shall pay the Grantor's tax, if any, and the expenses of legal counsel for Seller, if any.
- H. Exclusive possession of the Property shall be delivered to Buyer on the Closing Date, subject to the provisions of this Contract.

#### SECTION 15. CONDEMNATION.

Seller has no actual knowledge of any pending or threatened condemnation of the Property. However, if, after the date hereof and prior to the Closing Date, all or any part of Property is subjected to a bona fide threat of condemnation or condemned or taken by a body having the power of eminent domain or a transfer in lieu of condemnation, Buyer shall be promptly notified thereof in writing and within twenty (20) days after receipt of written notice to Buyer, Buyer may by written notice to Seller elect to cancel this Contract prior to the Closing Date, in which event all parties shall be relieved and released of and from any further duties, obligations, rights, or liabilities hereunder, except that Buyer's Deposit shall be promptly refunded to Buyer and thereupon this Contract shall deemed terminated and of no further force and effect. If no such election is made by the Buyer to cancel this Contract, this Contract shall remain in full force and effect and the purchase contemplated herein, less any interest taken by condemnation or eminent domain, shall be effected with no further adjustments, and upon the Closing Date, Seller shall assign, transfer, and set over to Buyer all of the right, title, and interest of Seller in and to any awards that have been or that may thereafter be made for any such taking or takings.

#### **SECTION 16. RISK OF LOSS.**

Risk of Loss by fire or other casualty shall be upon Seller until Closing is completed.

#### **SECTION 17. COMMISSIONS.**

Seller and Buyer each warrant and represent to the other that their sole contact with the other or with the Property regarding this transaction has been directly between themselves and their employees. Seller and Buyer warrant and represent that no person or entity can properly claim a right to a commission, finder's fee, or other compensation based upon contracts or understandings between such claimant and Buyer or Seller with respect to the transaction contemplated by this Contract. Buyer agrees to indemnify the Seller against and to hold it harmless from any claim, loss, cost, or expense, including, without limitation, attorneys' fees, resulting from any claim for a commission, finder's fee, or other compensation by any person or entity based upon such contacts or understandings.

#### SECTION 18. SELLER'S OPTION TO REPURCHASE.

Notwithstanding any provision contained in this Contract or the Deed, if after thirty six (36) months from the Closing Date, Buyer or its successor(s) in interest shall not have commenced substantial construction on the development of the Property, including any parts of the Property the Buyer may have sold or transferred to others, as reasonably determined by the Seller, the Seller shall have the right and option to refund to the then record owner(s) of the Property and/or any part thereof the amount of the original Purchase Price or proportionate amount for a part of the Property Buyer paid the Seller; whereupon the then record owner(s) of the Property or the part thereof designated by Seller back to the Seller. In the event that the record owner(s) of the Property or the part thereof designated by Seller for any reason fails or refuses to convey title back to the Seller as required herein, the Seller shall have the right to enter onto and take possession of the Property or the part thereof designated by Seller, along

with all rights and causes of action necessary to have title to the Property or the part thereof designated by Seller conveyed back to the Seller. Buyer and/or its successors in interest shall pay any and all attorney's fees, costs or other expenses incurred as a result of such action. For the purpose of this Section, the term "substantial construction" shall mean the rough grading of the Property and/or lot to the extent necessary so that the Property and/or lot is ready for the construction of a building(s) thereon and that the streets set forth in the Blue Hills Village Concept Plan have been graded and curb and gutter installed along such streets.

#### **SECTION 19. REMEDIES**

- A. In the event Buyer shall have fully performed or tendered performance of its duties and obligations hereunder, but Seller fails to perform any of its duties or responsibilities in accordance with the terms and provisions hereof, Buyer's sole and exclusive remedy shall be an equitable suit to enforce specific performance of such duties or responsibilities. Any and all other remedies otherwise available to Buyer, at law or in equity, are hereby expressly waived by the Buyer except as otherwise specifically stated in this Contract.
- B. In the event Seller shall have fully performed or tendered performance of its duties and obligations herein, but Buyer shall have failed to perform its duties and obligations hereunder, Buyer's Deposit shall be retained by Seller as Seller's agreed upon initial liquidated damages. However, if Buyer closes on the Property and the Buyer and/or its successors or assigns fail to comply with the obligations of the Buyer in this Contract, the Seller may pursue all other remedies available by this Contract or by law to Seller to seek compliance with such obligations, including but not limited to specific performance, damages, self help of the Seller to perform such work and charge it back to the Buyer or its successors or assigns, including the right to enter such Property to enforce such self help. Notwithstanding the foregoing, the Buyer shall not be responsible for any breach of the terms of this Contract by any third party to which Buyer has conveyed one or more lots and Seller's sole recourse shall be against such third party.

#### **SECTION 20. NOTICES.**

All notices hereunder must be in writing and shall be deemed validly given if sent by certified mail, return receipt requested or by a nationally recognized overnight courier, addressed as follows (or any other address the party to be notified may have designated to the sender by like notice):

If to Seller: City of Roanoke, City Manager

364 Noel C. Taylor Municipal Building

215 Church Avenue, SW Roanoke, Virginia 24011 Fax No. 540-853-1138

With a Copy to: Director Planning, Building, and Economic Development

111 Franklin Plaza, Suite 200

Roanoke, VA 24011 Fax No. 540-853-1213 If to Buyer: Blue Hills Village, LLC

5041-A Benois Road Roanoke, VA 24014

Attn: John F. Shoulders, Jr., Managing Member

With a Copy to: C. Cooper Youell, IV

Gentry Locke Rakes and Moore 10 Franklin Road, SE, Suite 800

P.O. Box 40013

Roanoke, VA 24022-0013 Fax No. 540-983-9400

Notice shall be deemed delivered upon the date of personal service, two days after deposit in the United States mail, or the day after delivery to a nationally recognized overnight courier.

#### **SECTION 21. TIME.**

Time is of the essence in the performance of the parties' respective obligations in this Contract.

#### **SECTION 22. SUCCESSORS AND ASSIGNS.**

This Contract shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

#### **SECTION 23. COUNTERPART COPIES.**

This Contract may be executed in one or more counterparts, and all such counterparts so executed shall constitute one Contract binding on all of the parties hereto, notwithstanding that all of the parties are not signatory to the same counterpart.

#### **SECTION 24. CONSTRUCTION.**

The parties acknowledge that each party and its counsel have reviewed and revised this Contract and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Contract or any amendments or exhibits hereto.

#### **SECTION 25. SEVERABILITY AND SURVIVAL.**

If any term of this Contract is found to be invalid, such invalidity shall not affect the remaining terms of this Contract, which shall continue in full force and effect. The parties intend for the provisions of this Contract to be enforced to the fullest extent permitted by applicable law. Accordingly, the parties agree that if any provisions are deemed not enforceable by any court or agency of competent jurisdiction, they shall be deemed modified to the extent necessary to make them enforceable. All terms and conditions of this Contract shall survive Closing.

#### **SECTION 26. COOPERATION.**

Each party agrees to cooperate with the other in a reasonable manner to carry out the intent and purpose of this Contract.

#### **SECTION 27. AUTHORITY TO SIGN.**

The persons who have executed this Contract on behalf of the parties represent and warrant they are duly authorized to execute this Contract on behalf of their respective entity.

#### **SECTION 28. NONWAIVER.**

Each party agrees that any party's waiver or failure to enforce or require performance of any term or condition of this Contract or any party's waiver of any particular breach of this Contract by any other party extends to that instance only. Such waiver or failure is not and shall not be a waiver of any of the terms or conditions of this Contract or a waiver of any other breaches of the Contract by any party and does not bar the nondefaulting party from requiring the defaulting party to comply with all the terms and conditions of this Contract and does not bar the nondefaulting party from asserting any and all rights and/or remedies it has or might have against the defaulting party under this Contract or by law.

#### SECTION 29. FAITH BASED ORGANIZATIONS.

<u>Pursuant to Virginia Code Section 2.2.-4343.1, be advised that the City does not discriminate against faith-based organizations.</u>

#### **SECTION 30. ENTIRE CONTRACT.**

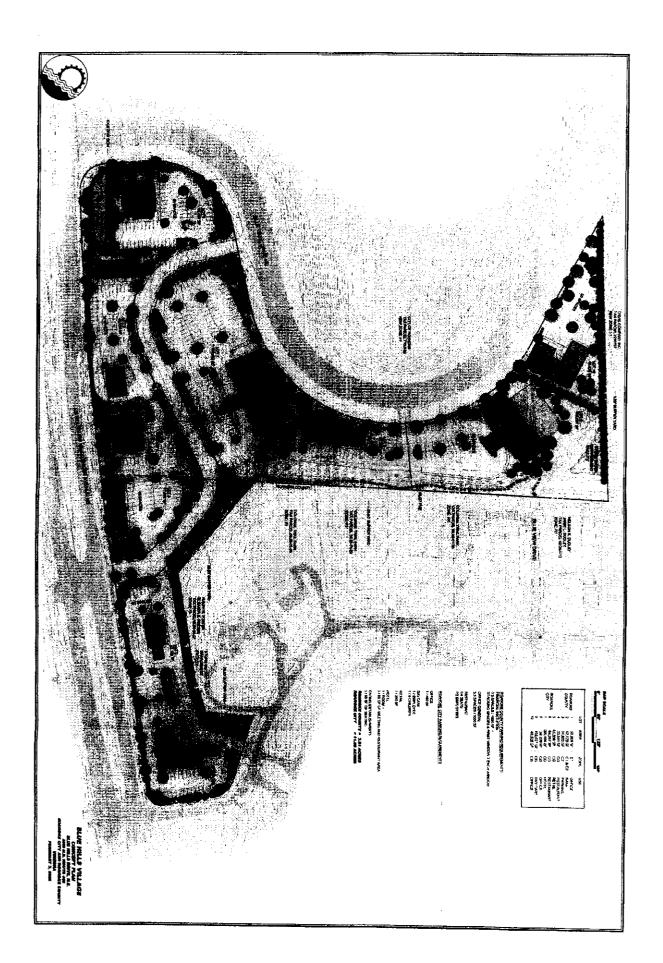
This Contract, together with the exhibits hereto, contains all representations and the entire understanding between the parties hereto with respect to the subject matter hereof. Any prior correspondence, memoranda, or contracts are replaced in total by this Contract and the exhibits hereto. No amendment to this Contract shall be valid unless made in writing and signed by the appropriate parties.

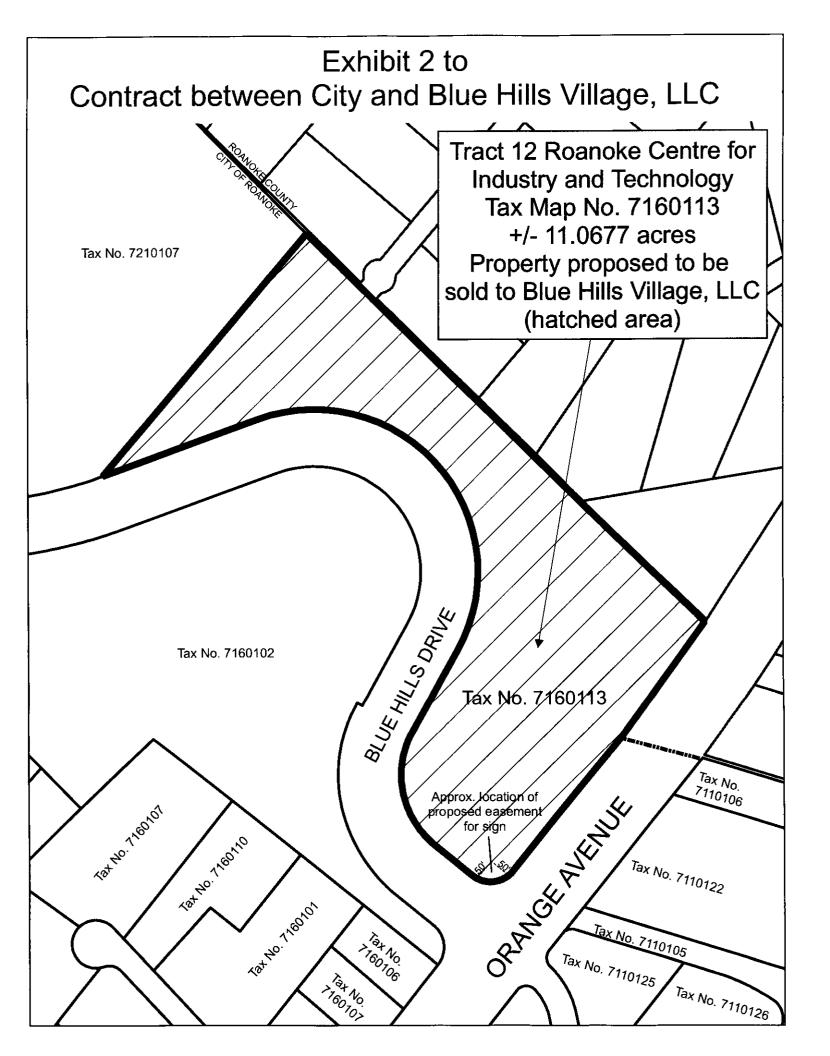
SIGNATURE PAGE TO FOLLOW.

IN WITNESS WHEREOF, Buyer and Seller have executed this Contract by their authorized representatives.

ATTEST:	CITY OF ROANOKE, VIRGI	NIA
Mary F. Parker, City Clerk	By	ger
COMMONWEALTH OF VIRGINIA	' To-Wit:	
CITY OF ROANOKE	10-111.	
The foregoing instrument was acknowled Burcham, City Manager for the City of		
My commission expires:	Notary Public	
		SEAL
WITNESS/ATTEST:	BLUE HILLS VILLAGE, LLC	Z.
	Ву	0.00
Printed Name and Title	Printed Name and Title	
	o-Wit:	
	knowledged before me thisday the of Bl	of, 2006, by ue Hills Village, LLC, fo
and on behalf of said company.		
My commission expires:	Notary Public	
Approved as to Form:	Approved as to Execution:	SEAL
Assistant City Attorney	Assistant City Attorney	

# Exhibit 1 to Contract between City and Blue Hills Village, LLC





D.T.

#### IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA

AN ORDINANCE authorizing the proper City officials to execute a contract to sell to Blue Hills Village, LLC, certain City owned property located in the Roanoke Centre for Industry and Technology (RCIT) located at the intersection of Orange Avenue, NE, and Blue Hills Drive, NE, and identified as Tax Map No. 7160113, upon certain terms and conditions; authorizing the proper City officials to execute a Deed of Release that will release such property from the Restrictive Covenants applicable to property in RCIT; authorizing the City Manager to execute such further documents and take such further action as may be necessary to accomplish the above matters; and dispensing with the second reading by title of this Ordinance.

WHEREAS, the Council for the City of Roanoke, after proper advertisement, held a public hearing on the above matters on July 17, 2006, pursuant to Sections 15.2-1800 and 15.2-1813, of the Code of Virginia (1950), as amended, at which hearing all parties and citizens were afforded an opportunity to be heard on the above matters; and

WHEREAS, after closing the public hearing, Council continued the matters to the August 7, 2006, Council meeting.

THEREFORE, BE IT ORDAINED by the Council of the City of Roanoke as follows:

1. The City Manager and the City Clerk are authorized on behalf of the City to execute and attest, respectively, a contract to sell to Blue Hills Village, LLC, certain City owned property located in the RCIT at the intersection of Orange Avenue, NE, and Blue Hills Drive, NE, consisting of approximately 11.067 acres and identified as Tax Map No. 7160113, upon certain terms and conditions as set forth in the contract attached to the City Manager's letter to

this Council dated August 7, 2006. Such contract is to be substantially similar to the one attached to such letter, and in a form approved by the City Attorney.

- 2. The City Manager and the City Clerk are authorized on behalf of the City to execute and attest, respectively, a Deed of Release releasing only the above- mentioned property identified as Tax Map No. 7160113 from the Restrictive Covenants applicable to the property located in the RCIT once the approvals needed for such a release have been obtained. Such Deed of Release is to be in a form approved by the City Attorney.
- 3. The City Manager is further authorized to execute such further documents, including a Deed of Conveyance, and take such further action as may be necessary to accomplish the above matters and complete the sale of the above-mentioned property to Blue Hills Village, LLC, with the form of such documents to be approved by the City Attorney.
- 4. Pursuant to the provisions of Section 12 of the City Charter, the second reading of this Ordinance by title is hereby dispensed with.

ATTEST:

City Clerk.



## CITY OF ROANOKE OFFICE OF THE CITY MANAGER

Noel C. Taylor Municipal Building 215 Church Avenue, S.W., Room 364 Roanoke, Virginia 24011-1591 Telephone: (540) 853-2333 Fax: (540) 853-1138 City Web: www.roanokeva.gov

August 7, 2006

Honorable C. Nelson Harris, Mayor Honorable David B. Trinkle, Vice Mayor Honorable Alfred T. Dowe, Jr., Council Member Honorable Beverly T. Fitzpatrick, Jr., Council Member Honorable Sherman P. Lea, Council Member Honorable Gwendolyn W. Mason, Council Member Honorable Brian J. Wishneff, Council Member

Dear Mayor Harris and Members of City Council:

Subject: Conveyance of City Owned

Property Tax No. 7390713, Nelms

Lane, NE

The City owns property located on Nelms Lane, NE, containing approximately 0.2457 acres that was formerly used by the Water Department as the site of a water storage tank. The tank has been removed and the property is no longer of use to the City. The parcel is located in a residential area and is assessed at \$22,300. (See Attachment #1) The City has received an offer of \$25,000 for this parcel from L & L Development Corporation. (See Attachment #2) Returning this parcel to private ownership would allow it to be developed for single family detached residential use.

A public hearing was held on July 17, 2006. No members of the public spoke during the public hearing and City Council tabled this matter to the August 7, 2006 meeting.

Recommended Action(s):

Authorize the City Manager to execute the appropriate documents to convey the property to L & L Development Corporation for the consideration of \$25,000, such documents to be approved as to form by the City Attorney.

Respectfully submitted,

Bucham

Darlene L. Burcham

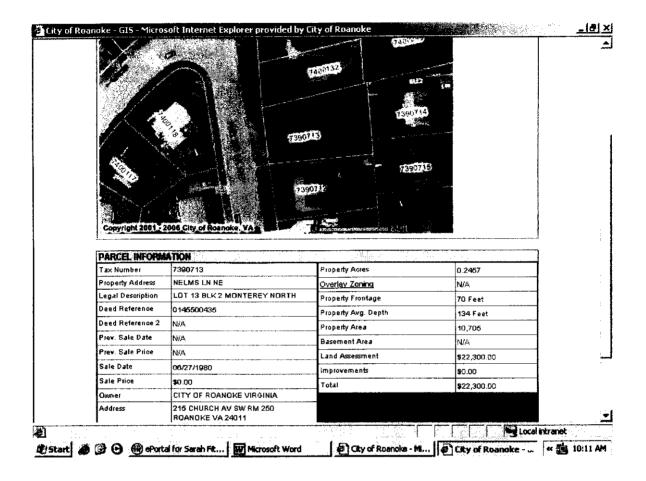
City Manager

#### DLB/SEF

#### Attachments

c: Mary F. Parker, City Clerk William M. Hackworth, City Attorney Jesse A. Hall, Director of Finance Sarah E. Fitton, Real Estate Acquisition Specialist

CM06-00144



### L&L Development Corporation

**Builders of Dreams** 

May 5, 2006

City of Roanoke Attention: Sarah Fitton

Dear Ms. Fitton,

This letter services as a preliminary offer of \$25,000.00 to purchase TM #7390713 located on Nelms Lane NE in Roanoke VA. Included in this offer is an acceptance of reasonability for the disposal of the existing concrete tank foundation, draw-off tunnel and associated materials.

L& L Development has no knowledge of items such as pipe, valves or other devise, and their relationship to the new (existing) water system. This should be determined prior to settlement.

If you find this preliminary offer to be reasonable and we receive verification of acceptable water and sewer access we can then move forward to a formal contract. In the meantime I can be reached on my cell phone at (540) 520-4600.

Regards, Jim Lafon



#### IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA,

AN ORDINANCE authorizing the City Manager to execute the necessary documents providing for the conveyance of City owned property, designated as Official Tax Map No. 7390713, containing 0.2457 of an acre, located on Nelms Lane, N.E., to L & L Development Corporation, upon certain terms and conditions; and dispensing with the second reading of this ordinance.

WHEREAS, a public hearing was held on July 17, 2006, pursuant to §§15.2-1800(B) and 15.2-1813, Code of Virginia (1950), as amended, at which hearing all parties in interest and citizens were afforded an opportunity to be heard on such conveyance.

THEREFORE, BE IT ORDAINED by the Council of the City of Roanoke that:

- 1. The City Manager and the City Clerk are hereby authorized, for and on behalf of the City, to execute and attest, respectively, the necessary documents providing for the conveyance to L & L Development Corporation by a quitclaim deed, a parcel of City-owned property containing 0.2457 of an acre, being Official Tax No. 7390713, located on Nelms Lane, N.E., for the consideration of \$25,000.00, upon the terms and conditions set forth in the City Manager's letter to this Council dated August 7, 2006.
- 2. All documents necessary for this conveyance shall be upon form approved by the City Attorney.

3.	Pursuant to the provisions of Section 12 of the City Charter, the second reading of	
this ordinance by title is hereby dispensed with.		
ATTEST:		
	City Clerk.	